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PAGE

(Testimony of E. C. Woods.)

"E. E. Huddleson: You are going to tell me what the demands are going to be first—you can't do that with me—I don't want this controversy started all over again, and we may as well go on with it now.

"Bridges: Well, that is up to the men themselves. [367]

"E. E. Huddleson: I have a full crew of men here. I am going to have to put them out to put these others back, and then after I do that, they can say, "Here are the demands—we won't work unless we get them." Then, I will have to go out and get more men to take their places.

I am not going to agree to arbitrate a question of wages. We are not going to pay any more wages or work under any different conditions than the balance of the people in the Canning Industry, of which we are only one out of 57. This is what I mean—I can't afford to do it and I know what the answer would be.

"Bridges: The question that the whole thing involves now is that there have been no demands made for an increase in wages, better hours, etc., at this time; the only demand being made right now is that these men be returned to work, and that if there is any question of these six men not being employed again, this could be taken up with a third party and he would decide—now, that is our position.

"E. E. Huddleson: You ask me to do that, and then just wait and see what happens from there

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(Testimony of E. C. Woods.)

on. You don't want to make [368] any guarantee as to how long they will remain on the job, etc.? You are going to take these things up afterwards?

"Bridges: We are asking that they come back to work.

"E. E. Huddleson: I want to know what the demands are going to be.

"Bridges: The only demand is that the men be reinstated and that any differences be referred to the Regional Labor Board.

"E. E. Huddleson: I have nothing to add to our conversation, Mr. Bridges, I have already made my position clear.

"Bridges: Is your answer, "No," as we will be questioned by the Labor Board.

"E. E. Huddleson: I don't wish to discuss it any further." [369]

Cross Examination.

Q. (By Mr. St. Sure) You mentioned, Mr. Woods, upon being asked as to the organization in various cannery warehouses, that the Rosenberg cannery warehousemen had been organized.

A. That is correct.

Q. What sort of canned goods does Rosenberg Bros. put up?

A. I don't know just what kind of canned goods they put up. It is mostly a packing house. They have warehouse work there the same as any of the other warehouses. It is case goods that they stack, and they do the same identical work as any other warehouse.

(Testimony of E. C. Woods.)

Q. Did you have dealings with any of the officials of Rosenberg Bros. in connection with organizing their cannery warehousemen?

A. I did.

Q. With whom?

A. I don't recall his name right now.

Q. Mr. Rothchild?

A. He was one of them.

Q. Mr. Higgins.

A. No, not Mr. Higgins.

Q. Mr. Oppenheimer?

A. I think not. It is a contractor that does that work, and I don't recall his name right now. [370]

Q. Oh, a contractor does the work for Rosenberg Bros.?

A. Yes sir.

Q. And when you say that Rosenberg Warehouse is organized, you mean that the contractor's men are members of the union, is that correct?

A. Well, they are paid by Rosenberg checks.

Q. How many men are involved in that operation at Rosenberg Bros.?

A. During their busy season they use about fifteen men there.

Q. What is their busy season?

A. I don't know just what their busy season is. I think it is around July.

Q. You say they use about fifteen men there at times?

A. That is right.

(Testimony of E. C. Woods.)

Q. When was that contract negotiated?

A. Sometime, three or four months before this Santa Cruz.

Q. Three or four months before?

A. Yes.

Q. Who signed that contract on behalf of Rosenberg Bros., or was it signed?

A. That isn't a signed contract because they pay over the scale; in place of 62½ cents, they paid 72½ cents.

Q. So you have no signed contract?

A. No signed contract. [371]

Q. Do those men do labeling?

A. Yes sir.

Q. And operate printing machines?

A. Yes sir.

Q. And they do that under contract, you say?

A. I think it is all done under contract. I am quite sure it is.

Q. Now, Libby, McNeill & Libby—by the way, you know that Rosenberg Bros.' plant esentially handles dried fruits in their Oakland plant; you know that, don't you?

A. Rosenberg?

Q. Yes.

A. Yes.

Q. What about Libby, McNeill & Libby, their plant across the street, do they handle green vegetables and fruits?

A. They have a regular cannery in their plant there.

(Testimony of E. C. Woods.)

Q. Do you know—down there opposite Rosenberg Bros.?

A. Yes, one end is the canning plant, and the other end is the warehouse.

Q. They do a regular canning business of green vegetables and fruits down there?

A. Yes sir.

Q. How many men do they have in their warehouse?

A. I would say they had 25.

Q. And when was your contract, or have you a contract with [372] Libby, McNeil & Libby?

A. It is the same thing; they pay 72½ cents.

Q. Have you a written contract there?

A. Well, we don't want to sign up a contract for over what we have in the other warehouses. If they want to pay 72½ cents, well we don't want to have a contract with one of them, so the contract stands at 62½ cents, and if they pay over it, they don't have to sign a contract.

Q. Is there any contract existing, written contract, at any figure?

A. A verbal agreement, sir.

Q. A verbal agreement?

A. Yes.

Q. Did you have any negotiations at all then with those people that were paying more than the scale that you charge in commercial warehouses?

A. No sir, they were paying 35 cents before.

Q. Paid 35 cents before?

A. Yes.

(Testimony of E. C. Woods.)

Q. Before what date were the Rosenberg people, now getting 72½ cents, receiving 35 cents?

A. I couldn't tell you. I haven't the record of that, sir. We have it on record, but I haven't it with me.

Q. And you say Libby, McNeill & Libby warehouse was likewise paying 35 cents and it was increased to 72½ cents? [373]

A. 35 to 40 cents, yes sir.

Q. About when did the change with Libby, McNeill & Libby take place?

A. The two of them changed about the same time; about two or three months before we started to organize Santa Cruz.

Q. Was that before or after the organization of the Dried Fruit & Lug Packers Union at the Rosenberg plant, do you know?

A. That was before.

Q. How long before?

A. Oh, it was sometime before. I don't recall just how long; it was quite some time before.

Q. Did you submit a form of contract to Rosenberg Bros.?

A. No sir.

Q. Did you make any demands—I mean, how did you go about this matter of accomplishing this change which you say took place?

A. We went to them and told them that our men were organized there, and they said it was fine; and they asked us what our demands was, and we demanded the terminal rate, and they gave it to us.

(Testimony of E. C. Woods.)

Q. Demanded the terminal rate?

A. Yes sir, in the warehouses.

Q. And the terminal rate is what?

A. 72½ cents. [374]

Q. You don't class them then as warehouses; you class them as terminals, is that it?

A. No sir, we class them as warehouses. That is a warehouse.

Q. Well, now, you say the Haslett form of contract, and Haslett operates a commercial warehouse, don't they?

A. Right.

Q. His rate is 62½ cents?

A. That is right.

Q. What is the distinction between that work, in your mind, and the work at Rosenberg Bros.?

A. Well, the Rosenberg plant, there they do a little high piling, the same as they would in this canning company; they do high piling there, and we figured it was worth more money to do high piling. They figured it was worth more money, too, and they brought that out themselves. They said it was harder work than that.

Q. In any event, you classify Rosenberg and Libby, McNeill & Libby on the basis of a terminal rate?

A. We did not.

Q. Who did?

A. They did themselves; they classified the pay, not their work, as terminal work.

(Testimony of E. C. Woods.)

Q. I thought you said a few moments ago—at least you made demands upon them for the terminal rate, we will put it that [375] way, is that right?

A. Well, we asked for 72½ cents an hour. That happens to be the same thing that the terminals get.

Q. All right. Now you mentioned that Haslett and other warehouses in the community have this contract that you refer to as the Haslett contract, at 62½ cents; is that correct?

A. Say that again.

Q. I say, the Haslett warehouse, and other commercial warehouses, have the 62½ cent rate, is that right?

A. That is right.

Q. And do you have signed agreements with all the commercial warehouses?

A. That is right.

Q. And—

A. (Interrupting) Just where do you mean, here or in 'Frisco?

Q. In Oakland.

A. No, I wouldn't say that we have every one of them here. There might be one we haven't got, but we have the majority.

Q. And when you submitted an agreement to the Santa Cruz plant, you submitted it on the basis of the 62½ cents an hour rate, is that correct?

A. Do you mean the proposed agreement?

Q. Yes. [376]

(Testimony of E. C. Woods.)

A. When we presented the proposed agreement —you have it there—it calls for 62½ cents.

Q. And that was on your reasoning that the work at the Santa Cruz plant was comparable with that done in the commercial warehouses, is that right?

A. With the exception of the high piling. We don't do that in commercial warehouses.

Q. Otherwise you feel the work is the same.

A. Yes sir.

Q. Now you mentioned the Del Monte, or California Packing Company. That is at Encinal Terminal, and that is known as Plant 48, isn't it?

A. Yes sir.

Q. What arrangement did you have with them?

A. The same thing, because they pay 72½ cents.

Q. They pay 72½ cents, is that correct?

A. Correct.

Q. You have a signed agreement with them?

A. No sir.

Q. And you say that only 40 to 50 per cent of their people are members of the union; is that right?

A. Yes sir, because they have stragglers coming in and out all the time and they don't belong to the union.

Q. Have you any signed, written agreement with them?

A. I just told you we didn't. [377]

Q. Pardon me if I seem to repeat. Just keep patient with me. How many people are there at the

(Testimony of E. C. Woods.)

Plant 48, do you know, who are doing this cannery warehouse work?

A. It varies.

Q. Well, what is your best judgment of the high and low during the season?

A. Runs from, I will say, eight to fifteen.

Q. Now in connection with Plant 48 in Alameda, that is located at the Encinal Terminal, is it not?

A. Across the street—across the railroad tracks.

Q. And the Encinal Terminal is organized, is it not, by 38-44?

A. No sir.

Q. Any I. L. A. Local?

A. By all I. L. A. Locals.

Q. It is organized then by all I. L. A. locals. In negotiating with the Del Monte people, at Plant 48, with whom did you negotiate that agreement?

A. I didn't negotiate that agreement.

Q. Who did, do you know?

A. Mr. Jack O'Connor.

Q. When was that negotiated?

A. I don't recall.

Q. Now, apart from the Rosenberg plant, which is operated on the Port of Oakland property at the 14th Street Terminal, [378] and the Libby, McNeill & Libby plant—and that, by the way, is on the Port of Oakland property at the Terminal, isn't it?

A. I don't think so. I think they have their own place. It is across the road, and it is a separate building. Their buildings are quite aways apart, and there is nothing else in Libby, McNeill & Libby but

(Testimony of E. C. Woods.)

them; and in Rosenberg the same way. So I am sure that they have full control of their buildings.

Q. I didn't ask that. I asked if they weren't on the Port of Oakland property and if they didn't have a lease from the Port of Oakland. Do you know?

A. I don't know.

Q. At Rosenberg Bros. you know there is a sign on the building there to that effect, isn't there?

A. I didn't notice that.

Q. Apart from those two plants in Oakland, Rosenberg and Libby, McNeill & Libby, and Del Monte, which is across the railroad tracks from the Encinal Terminal, do you have any agreement with any of the green fruit and vegetable canners in Alameda County covering the warehouse operations?

A. Verbal, yes.

Q. With what plants, please?

A. All three of them.

Q. All what?

A. All three of those plants. [379]

Q. I say, except those three that I mentioned.

A. With the exception of those three, no, we haven't.

Q. Do you have any agreement with either Rosenberg, McNeill, Libby & McNeill or Del Monte, California Packing, concerning the employment of others than union members.

A. Say that again.

(Testimony of E. C. Woods.)

Q. Do you have any agreement with either Rosenberg, Libby, McNeill & Libby or California Packing concerning the employment of men who do not belong to the union?

A. Rosenberg hires nothing but union men, and hires them all directly through the hall.

Q. Is that by agreement?

A. Yes. Libby, McNeill & Libby hires nothing but union men, and hires them all directly through the hall.

Q. Yes. California Pack?

A. I have told you they used some non-union men.

Q. If Rosenberg or Libby, McNeil & Libby failed to hire their men through the hall, would that be a violation of the agreement that you have with them?

Mr. Edises: I think that is calling for a legal conclusion from the witness, don't you, Mr. St. Sure?

Mr. St. Sure: Withdraw the previous question.

Q. (By Mr. St. Sure) Does this verbal agreement you have with Rosenberg and with Libby, McNeill & Libby specify they shall employ all men for their warehouse operations through [380] the hiring hall?

A. It does.

Q. If Rosenberg, or Libby, McNeill & Libby, either of them, employed men in the warehouse who were not members of the union, what action would the union take?

(Testimony of E. C. Woods.)

A. They never tried that.

Q. In other words, you don't know until it happens, is that it?

A. No sir.

Trial Examiner Traynor: We will take a recess for five minutes.

(At this point a recess was taken, after which proceedings were resumed as follows:)

Mr. St. Sure: Off the record.

Trial Examiner Traynor: Off the record.

(Discussion off the record.)

Mr. St. Sure: At this time I renew my request for an adjournment.

Mr. Edises has just mentioned to me that the Board itself apparently has declared a half holiday today, and also will on the 31st of December have a half holiday, so I do not think we are out of order in asking for an adjournment now.

I also understand from Mr. Kagel, and he can make his own statement concerning this, that the men are satisfied to withdraw their objection, from the union point of view, to an [381] adjournment at this time.

Mr. Kagel: That is true.

Mr. Edises: My position, I think has been fully stated in my prior statement, and I have at this time nothing to add. But I believe Mr. Kagel, representing the union, has a statement to make in that connection.

(Testimony of E. C. Woods.)

Mr. Kagel: Mr. Examiner, Mr. St. Sure is correct in his statement. During the noon recess I took up with the men directly interested in this matter the question of a recess until after the first of the year, which I believe was the original request of Mr. St. Sure.

In view of the fact that the men have had so little employment since the lockout, and that at the present time we have a busy season, the men would like the opportunity to get whatever work is available.

With that in mind, we withdraw the objection and we are prepared to go on at such date as the Examiner sets.

Mr. Edises: Prior to the Examiner's ruling on adjournment, may I request the production of the materials mentioned formerly, namely, the data in regard to the interstate commerce; and may I further request, in so far as practicable and convenient, that counsel for the Respondent be guided in the production of those materials, by the list of data contained in my letter to them of an earlier date.

Mr. St. Sure: I don't want to be in the position of [382] being misunderstood, or having the suggestion made later on that I misunderstood the request.

First, I do not think we want to be talking about disagreeing upon the basis of things that are technical. I am not offering to produce things with relation to interstate commerce. I think we understand what the issue of law is in the matter in our position, as well as that of the Board.

(Testimony of E. C. Woods.)

Mr. Edises: This is only to shorten matters.

Mr. St. Sure: I undertook this morning, and I now undertake formally to produce a statement of percentages, which is subject to verfication if the figures are questioned, as to what proportion of the pack of the Santa Cruz Fruit Packing Company, during the period of the season 1935, or the year 1935, was sold to and, in some fashion shipped or destined to purchasers in the United States outside the State of California. That proportion we will state in percentages.

Similarly, the proportion of goods destined to ultimate purchasers outside of this country, that is, in foreign countries. Those, likewise, will be stated in percentages.

This is with the understanding that we should like to offer, and I understand the Board similarly desires to offer, the forms of contract under which the sales were consummated.

This offer is to be made, or that material to be produced, by us without the production of it amounting to a waiver of any of the objections or reservations we previously have made; [383] and with the stipulation going solely to the question of the facts, that the thing that we are producing and will produce, is a statement of fact, without waiving our objections or reservations, and without admitting the materiality of those facts in connection with the statements that I have mentioned.

I have attempted to clarify my position in connection with what we will undertake to produce, and the

(Testimony of E. C. Woods.)

circumstances under which we will produce it, inasmuch as there were other demands made upon us which are not directly related to the matter of the percentages of the pack, the purchasers and the ultimate destination of the goods sold, so there will be no misunderstanding, and so I will not come in with less than you anticipated.

Mr. Edises: I have no objection at all to the matters that you have indicated you intend to bring in, Mr. St. Sure; but I do feel that the percentages alone would not be sufficient, that it is quite as material, if not perhaps more material, to have the quantities of these various products.

My reason is that it should be evident that, in the absence of any such figures, a company might, as an extreme hypothetical case, turn out only ten cases a year, and even if nine-tenths of those were shipped out of the state, or out of the country, the maximus de minimus would probably apply and it would be contended that this case was not engaged [384] in interstate commerce.

Mr. St. Sure: I assume counsel has in mind the extent of the repercussion as a result of the language used in some recent cases. I do not know any reason why we cannot, instead of having figures which mean nothing, state that the total pack for the year was so many cases, and then the percentage will mean something. In other words, I have no object in hiding the fact as to the extent of the business done out there.

Mr. Edises: That is satisfactory.

(Testimony of E. C. Woods.)

Mr. St. Sure: The thing we object to is the fact that we do not choose to reveal the matters which our customers might believe were not the business of this proceeding, and that is the extent of their business with the Santa Cruz Company, the rates, prices, credit arrangements, and things of that kind.

The first request was on that basis and we declined it. It isn't our desire to make a mystery out of something which is an admitted fact. I feel I can state that what we will produce will be figures that will be intelligible and not leave us in the position where subsequently it might be said that our pack consisted of ten cases, and ten per cent amounted to one case. We don't want to cloud the issues by any such contention.

Mr. Edises: That will be agreeable. [385]

May I at this time, because I believe it would be convenient, request also the production of the time cards of the employed men during this critical period? I believe, for the purposes of comparison, and in order to indicate what changes, if any, of management and so on took place, that it might be advisable to have them for a day or so before and a day or so after; and, offhand it occurs to me if we could get those from the period, say August 1 to August 10, it would be very helpful and material.

It occurs to me that there was no mention of Stokely in your previous offer. I do not know whether your failure to bring them in was the lack of the matter of power, or just what. But I would like to have the same figures with reference to the

(Testimony of E. C. Woods.)

materials produced at Stokely, unless we can enter into some kind of a stipulation as to the relation of Stokely to Santa Cruz.

Mr. St. Sure: I am not in a position to produce the figures concerning the Stokely situation. This I state without desiring to have it binding upon my client, but simply to indicate to the Examiner the nature of the relationship as I understand it, and I make this statement upon the same basis and with the same reservation previously made, with the one more, as I do not choose to be bound by it because I am stating from guess and general information and not from knowledge of facts: [386]

That Stokely Bros., in so far as a portion of the pack packed for that firm by Santa Cruz, are in the position of any other contractor and have a contract to purchase materials which are then stored across the street in the Stokely warehouse. It may be we will be able to produce information, although I can't undertake to do that, showing the basis of arrangements between Stokely Bros. and Santa Cruz.

In any event, I cannot undertake to agree to furnish the like material concerning the Stokely pack; I mean as to where it goes, or what becomes of it. I am not in position to furnish that material.

As to the extent of the total pack of Santa Cruz which is delivered to Stokely, it may be that we can produce those figures, if that would be desirable from your point of view.

As to the time cards, I think I can undertake to produce those for the period from August 1 to

(Testimony of E. C. Woods.)

August 10, covering the men in the warehouse operation.

Mr. Edises: Would that include the Stokely men?

Mr. St. Sure: That I don't know. I can offer to produce as far as Santa Cruz is concerned; and if the Gomez contract—and I believe you have a copy of it—covers both Stokely and Santa Cruz operations, we can produce the Gomez contract.

As to Stokely time cards before the time of the change of contract, I cannot be sure of that, whether I can produce them. [387]

Mr. Edises: I am willing to leave it to counsel's good will in the matter. I feel that I would like to have it understood that if there is a reasonable possibility of our getting those matters, without being required to resort to subpoenas and matters of the like, I prefer to have it done that way.

Mr. St. Sure: I want to go as far as I can. That is why I tried to make clear the things that I think I can produce, as well as the things I may not be able to produce.

Very frankly, there are certain matters involving matters of policy in the business relationship over there which I am not in control of, and as to those things that I feel that I can in fairness make the offer and keep faith in the making it it, those things I will undertake to produce; those things which I cannot—Mr. Edises has indicated the things he would like, in addition, and if I cannot produce those I will state I cannot, after checking up.

(Testimony of E. C. Woods.)

Trial Examiner Traynor: That is clear. That helps matters considerable.

Mr. Edises: As far as I am concerned, I do not want any data or material on the purely internal affairs of Stokely or the Santa Cruz Company, except as do bear upon this determination that we are now concerned about. That has been my policy, is my policy, and will continue to be so.

Mr. St. Sure: My thought has been in this entire matter to put the facts before the Board. I was very much [388] concerned, as I think a lawyer would be, when I heard the statement made in connection with the previous hearing of this sort, that one witness was on the stand four days while technical objections were argued, that perhaps I wasn't doing what I was supposed to do. But I feel, in the interest of all of us, that the quicker we can get at the facts in the matter, and leave the determination of the matters of law and their application, to the Examiner and the Board, the better off we are going to be.

I do not want the Examiner to think we are sliding through this thing; on the contrary, we are going to present all the matters as rapidly and as clearly as we can. I think Mr. Edises has the same thought in mind.

Trial Examiner Traynor: I feel it has been done, and that counsel are to be commended upon the manner in which the case has been presented so far.

Mr. St. Sure: At this time I want to renew my motion, the reasons for which have already been

(Testimony of E. C. Woods.)

stated, to adjourn the hearing now until January 2. I will want Mr. Woods to return at that time for further cross examination.

Trial Examiner Traynor: And you want to discontinue right now?

Mr. St. Sure: I think it will save time all around.

Trial Examiner Traynor: You want to discontinue right now, right this minute, or would you rather continue [389] until 4 o'clock?

Mr. St. Sure: Right now, yes.

Trial Examiner Traynor: In view of the information that I have from both counsel, and in view of the fact that I probably could not be here Friday and Saturday, and Monday afternoon, the hearing will adjourn until January 2, 1936, at 10:00 o'clock a. m., in this room.

(Thereupon, at 3:35 o'clock p. m., an adjournment was taken until January 2, 1936, at 10:00 a. m.) [390]

[Title of Court and Cause.]

Extra Sessions Courtroom
Alameda County Court House
Oakland, California
Thursday, January 2, 1936.

Met pursuant to adjournment at 10:10 o'clock a. m.

PROCEEDINGS.

Trial Examiner Traynor: Are counsel ready to proceed?

Mr. St. Sure: Yes.

(Testimony of E. C. Woods.)

Trial Examiner Traynor: I believe you are to continue with your cross examination of Mr. Woods?

Mr. St. Sure: Yes. [391]

Trial Examiner Traynor: Mr. Woods has already been sworn.

Mr. St. Sure: At this time, in accordance with the undertaking to produce certain materials, subject to the reservations which were made at that time, that is, without waiving our objections to the proceeding, jurisdiction, materiality, constitutionality of the Act, and with the understanding that the offer is made solely upon the basis of the stipulation of the correctness of the material offered, and not as to its materiality in the proceeding, or its relevancy, or its admissibility, I have here the time cards for the period from August 1 to August 10, inclusive, 1935. They are divided into groups, each group representing one day, and they bear the name of the employe, the respective employes, and the number which I take it is the company check or time card or time clock number; those for the period from August 1, including August 1, 2, 3, 4, 5, and 6, and bear across the top, or end of the card, the legend, "Santa Cruz Fruit Packing Company," and simply for the purpose of identifying them for the record, on each card is printed "Indirect and warehouse labor."

I haven't counted these cards, nor do I really know what they disclose, but I offer them for such use as counsel desires, with the stipulation that I

(Testimony of E. C. Woods.)

mentioned, and with the understanding, further, that we may, if the Examiner desires [392] to retain them as a part of the record, make copies and substitute the copies for the originals, which are to be returned so we may have them at the plant.

Also there are here the cards for August 7, 8 and 9, and the 10th, which are in the same form, with the exception that the legend at the end or top, which reads, "Santa Cruz Fruit Packing Company," has been cut off, or the cards made shorter, and the printed portion across the top has been left off and on the face has been stamped with a rubber stamp, "Manuel Gomez."

We produce these cards with the same understanding, and subject to the same reservation.

Also, in connection with the matter of percentages, subject to the same understanding and reservations, and without any waiver of any of the objections which have been made, I can state that the total pack of the Santa Cruz Fruit Packing Company, for the year 1935, together with the carryover from the previous year's pack, totaled 1,699,270 cases; of this amount 9.02 per cent was sold to purchasers having their offices, or apparent principal places of business, outside of the United States; and those cases, that 9.02 per cent, were sold to those purchasers on the following basis:

7.02 per cent of the sales referred to, that is of this 9.02 per cent, were sold pursuant, or under a c.i.f. contract, in the form of which I am now offering a blank contract which [393] is captioned

(Testimony of E. C. Woods.)

"British Isles Canned Food Contract (as per specifications on obverse side) adopted by the Canners' League of California, April 25, 1922, with amendments to March 11, 1927."

A copy of this contract has been previously furnished to the Board. We desire to offer it in connection with our statement as to the facts and figures simply by way of explanation of the method, or the means for the basis of the sales to that 7.02 per cent outside of the United States on a c.i.f. basis.

Also, as to the remaining 2 per cent, which will make up the total of the 9.02 per cent sold outside the United States, that remaining 2 per cent was sold on a f.o.b. San Francisco Bay contract.

Now as to the remaining portion of the pack, upon the same understanding, we state that the sales to purchasers having their, as far as we know, principal place of business, at least the place to which the bills are sent, outside the State of California, amount to 69.68 per cent of the total pack.

Mr. Edises: Purchasers outside the State of California within the United States?

Mr. St. Sure: Yes, within the United States.

And as to the entire amount of 69.68 per cent, those sales are made, and were made, entirely upon the basis of a [394] Pacific Coast f.o.b. Canned Foods Contract, f.o.b. Oakland, or some San Francisco Bay point.

And in this connection we desire to offer, subject to the same understanding, a copy of that form of

(Testimony of E. C. Woods.)

f.o.b. Pacific Coast Foods Contract, a copy of the same form having been previously furnished to the Board. And simply for the purpose of identification, the printed form which I have here is entitled "Pacific Coast f.o.b. Foods Contract effective May 15, 1922, with Revisions to May 10, 1927, adopted by the Canners' League of California, and approved by the National Wholesale Grocers Association, as per specifications on the reverse side."

The remaining portion of the pack, that is, the difference between the 9.02 per cent and the 69.68 per cent, which are sold in the form that I have referred to, are sold and billed to purchasers who have their principal places of business, as far as we know, within the State of California, or that difference represents the carryover of the pack which is unsold.

I have those percentages worked out in numbers of cases, if that is desirable to have. If not desired at this time, we can produce that subsequently.

Anything else that I undertook to produce at this time that you recall?

Mr. Edises: I believe that is the substance of our [395] stipulation.

I would like to ask Mr. St. Sure at this time if he is in a position to include in the material he has just given, some information as to the form of the bills of lading in these shipments; for example, whether the bill of lading is made out to the seller or order.

(Testimony of E. C. Woods.)

Mr. St. Sure: I haven't that available. We can get it, I am sure, and will be pleased to undertake to do that, with the same understanding.

Mr. Edises: I would appreciate your doing that. I believe that that will complete the information that I would like to have on that point.

Mr. St. Sure: We offer for identification, under our reservation and stipulation, without our waiver of our rights in the matter, and for the purpose of the record, the time cards as Respondent's Exhibit No. 1 for identification only.

We offer the c.i.f. contract form, the one entitled "British Isles Canned Foods Contract," with the same understanding, as Respondent's Exhibit No. 2 for Identification only.

And, with the same understanding, we offer the f.o.b. Pacific Coast form of contract as Respondent's Exhibit No. 3 for identification only.

That will probably keep the record straight in that respect. [396]

Trial Examiner Traynor: They may be so marked for identification.

(The time cards referred to were marked Respondent's Exhibit No. 1 for Identification only.)

(The c.i.f. form of contract referred to was marked Respondent's Exhibit No. 2 for identification only.)

(The f.o.b. Pacific Coast form of contract referred to was marked Respondent's Exhibit No. 3 for identification only.)

Mr. Edises: May I explain a bit further my request in connection with information as to the form of bill of lading.

Mr. St. Sure: Sure.

Mr. Edises: I would like to have a statement as to the form of the bill of lading, with reference to whom it is made out, and also a statement of what other documents are included, as the document of the title, that is, insurance, or other documents of the sort, and whether or not there is a draft made out which accompanies the bill, and the terms under which it is presented to the buyer; and if it is presented to the buyer, just exactly how that transaction is carried out.

Mr. St. Sure: All right.

Mr. Edises: That will apply to the domestic and foreign shipments. I assume there is a standard practice in [397] that respect.

Mr. St. Sure: I don't know. I will find out.

Mr. Edises: If not, whatever is the practice.

Mr. St. Sure: I will find out what it is and get all the information I can, with the same understanding.

I think, as I look at these figures which have been produced, and the method of computation, has probably saved considerable time in arriving at the conclusion, rather than trying to go into the record to reach the results.

Mr. Edises: Yes.

(Testimony of E. C. Woods.)

E. C. Woods, the witness on the stand at the time of adjournment, resumed the stand and testified further as follows:

Cross Examination (Continued)

Q. (By Mr. St. Sure) Mr. Woods, do you recall when Mr. Anger first talked with you about the matter of his interest, or the interest of others in affiliating with the union which you represent?

A. I would like to refer back to the transcript. That question has been answered already.

Mr. Edises: Well, just a moment. You can answer that to the best of your recollection, Mr. Woods.

Trial Examiner Traynor: You should answer the question.

A. I think it was somewhere, as near as I can remember, [398] around the 15th of the month.

Q. (By Mr. St. Sure) That would be about the 15th of July?

A. That is right.

Q. And at that time did you discuss with Mr. Anger the matter of any specific request to be made to the Santa Cruz Fruit Packing Company concerning hours, or wages, or working conditions?

A. I did not.

Q. When did you first discuss with Mr. Anger any matters of that kind?

A. About the different things that were to be put to the company?

Q. Yes.

A. Those questions were not brought up at all, and—

(Testimony of E. C. Woods.)

Q. (Interrupting) You didn't—pardon me?

A. (Continuing)—and they were never brought up by Mr. Anger or myself.

Q. That is, you did not discuss with Mr. Anger at any time the matters of the specific terms of any contract that would be submitted to the management of the Santa Cruz Fruit Packing Company, is that correct?

A. The only information that I ever furnished on that was the contract that was signed, and as we referred to it before, as the warehouse agreement. I turned, furnished him [399] with one of those warehouse agreements that had already been signed by Haslett.

Q. When was it you furnished him with a copy of that agreement?

A. I think it was around the 5th; on Monday anyway.

Q. And had you by that time received applications from the men employed at the Santa Cruz warehouse for membership in the union?

A. I had.

Q. Under what circumstances did you give to Mr. Anger this copy of the Haslett, so-called Haslett agreement; do you recall? I mean where and when was it, and how did it come about that you gave it to him at that time?

A. He was going to take it to the men and see if that was agreeable with them to put—present that before the men as it was.

(Testimony of E. C. Woods.)

Q. And then what was he to do? Let you know whether it was agreeable or not?

A. He was.

Q. Then what were you to do? Take it up with somebody else?

A. No. If it would have been agreeable to the men, it would have been presented to the company.

Q. If it had been agreeable to the men it would then have been presented to the company? [400]

A. Yes sir.

Q. As a matter of fact, it was presented to the company before you knew whether the men agreed or not?

A. No sir, they told me that it was all right.

Q. Who told you?

A. There was half a dozen of the men out there. I don't recall any of their names, but Bob was in the bunch at the time.

Q. And what day was that with reference to the—

A. (Interrupting) Same day.

Q. You mean the same day you gave it to Mr. Anger?

A. Yes sir.

Q. And what did you then do, as far as this contract was concerned?

A. The contract was mailed to Mr. Huddleson.

Q. And do you recall whether that was the same day or the following day?

A. I think that—I don't recall.

(Testimony of E. C. Woods.)

Q. Well, did you mail it? I mean this contract, did you mail it to Mr. Huddleson?

A. It was mailed through the Labor Bureau.

Q. Pardon me?

A. It was mailed through the Labor Bureau.

Q. What is the Labor Bureau?

A. I think that the Labor Bureau is a Bureau that draws up [401] the agreements. In other words, it is a legal staff that draws up the agreements and mails them out, or looks them over for us.

Q. You mean they represent the union and not the Labor Board which is holding this proceeding?

A. No sir, not the Labor Board.

Q. You are referring to the Labor Bureau of the I. L. A.?

A. That is right.

Q. And do you know who there sent out this particular agreement?

A. Well, I couldn't tell you who did send it out, but it was mailed out from that office.

Q. Do you know when, I mean on what day?

A. I told you I didn't know what day. I am not sure.

Q. Well, now up to that time had you ever seen Mr. Huddleson to talk with at all?

A. No sir.

Q. Was there any meeting held, up to that time, with the men who had applied to become members of the union to discuss the terms of the contract?

A. No sir.

(Testimony of E. C. Woods.)

Q. In fact, the men themselves had not yet been initiated, had they?

A. No sir.

Q. Now do you know whether or not a copy of this contract [402] was sent to Stokely Bros.? I note they are referred to in the form which has been presented here, as parties to the contract, as well as the Santa Cruz Fruit Packing Company.

A. Would it be permissible to refer that question to Mr. Sam Kagel?

Q. I am simply asking what you know.

A. He mailed the agreement out.

Q. You yourself don't know whether it was mailed to Stokely Bros. or not?

A. To Stokely Bros., no. We didn't mail one out because that was understood, that is, that they were both under the same management, and Mr.—they were both under the same management, and I was told by Mr. Huddleson that he owned the two places, that is, 69 per cent of the entire two places, and if there was any dealings, that he would do it.

Q. When did he tell you that?

A. That is why there was no agreement made out for Stokely.

Q. When did he tell you that?

A. What?

Q. When did he tell you that?

A. In an interview with him.

Q. But you didn't see him at all before the agreement was mailed out?

A. No; after I went to see him about that. [403]

(Testimony of E. C. Woods.)

Q. The fact that you didn't send one to Stokely wasn't based on anything Mr. Huddleson told you at the time you mailed it out, was it?

A. No sir, not at that time.

Q. When was it that Mr. Huddleson told you this about his ownership, that you just referred to?

A. The same interview I had with him when I went to him about the men.

Q. When was that?

A. I think that was on Tuesday; either Tuesday or Wednesday.

Q. Was that before or after the initiation?

A. That was before.

Q. Was any one else there at that interview besides yourself and Mr. Huddleson?

A. No sir.

Q. After the night of the initiation, when you learned that the men had been replaced, did you do anything with reference to taking up with the affiliated unions the matter of the status of the Santa Cruz merchandise?

A. Yes sir.

Q. And what did you do in that connection?

A. I went to the other unions and told them that the Santa Cruz Fruit Packing Company had locked the men out.

Q. What unions did you go to?

A. Teamsters, Local 70 of San Francisco. [404]

Q. Local 70. That is what union, the Teamsters'?

A. Teamsters' union.

(Testimony of E. C. Woods.)

Q. Yes.

A. I went to the Labor Council here in Oakland.

Q. Yes.

A. And I went to the various locals in Frisco.

Q. What particular locals did you go to there?

A. All I. L. A. locals, and the Teamsters.

Q. Name them, please.

A. The Teamsters' Local, the Bargemen's Local, Sailors, Longshoremen, Teamsters, Scalers, and several of the various others.

Q. Dock clerks?

A. Dock clerks.

Q. Your own union, that is the warehousemen were included in the notice?

A. Yes sir.

Q. What was your purpose in going to these other locals, whether I. L. A. locals or locals of the American Federation of Labor? Why did you go to them?

A. They are all affiliated with the American Federation of Labor.

Q. Well, my question was why did you go to them, what was your purpose in going to them at that time?

A. It is the proper thing to do; it is the proper proced- [405] ure you always go through whenever a union is having difficulties.

Q. Well, could you explain that, please. I mean what is the procedure purposed to do, and what is the procedure itself?

(Testimony of E. C. Woods.)

A. It is merely a matter of form that you notify and keep in touch with the other unions of any difficulty that is going on. The unions then cooperate with you to the fullest extent; rather, they always have with us.

Q. What is that cooperation that you refer to? I mean what did you expect, and what did you receive by way of cooperation in this particular situation from these other locals?

A. A union—the main problem that I have always found on going to the Labor Council in things like that, is that no union man will patronize any goods from any unfair place.

Q. Well, with reference to the Santa Cruz goods, did that sort of cooperation develop?

A. It did.

Q. And did it go beyond the point—by not patronizing you mean the purchase or use of Santa Cruz products?

A. True.

Q. Did you go beyond that in this situation?

A. Clarify that, please.

Q. Well, did anything else occur as a result, so far as [406] you know, of your advising these various locals of the situation at Santa Cruz with reference to Santa Cruz cargo? I mean this: It was declared hot, wasn't it?

A. Yes sir.

Q. What is the process of declaring cargo hot?

A. It just means that no one would go in and out of that plant; no union man.

(Testimony of E. C. Woods.)

Q. And what about Santa Cruz cargo that reached the docks, or reached the warehouses, what about the handling of that cargo?

A. It wasn't handled.

Q. Why wasn't it handled?

A. Because the warehousemen had to handle it and they weren't going to break their own union.

Q. And why wouldn't the union men go in and out of the plant, the men that were not members of the warehousemen's union?

A. For the simple reason they had Finks in there working.

Q. What do you mean by "Finks"?

A. Some strike breakers that go in and take a man's job.

Q. Now you say that on the docks at the warehouses, the cargo wasn't handled by the men bebecause they were members of the same union, that is the Local 38-44 that you represent; is that correct?

A. That is correct. [407]

Q. How about on the docks in San Francisco? The warehousemen's union, as I understand it, differs or is a different local than the stevedore's union; is that correct?

A. The cars are still loaded by warehousemen.

Q. Am I correct in assuming that 38-44 is one union, or one local, and 38-79 is another local?

A. That is true.

Q. And 38-44 comprises the warehousemen?

A. They have to unload the cars onto the dock.

(Testimony of E. C. Woods.)

Q. Just take it step by step. The 38-44 are warehousemen?

A. Yes sir.

Q. They do the car unloading you say?

A. Yes sir.

Q. And then the movement from the dock to the ship is handled by stevedores; is that correct?

A. That is right.

Q. And, as a matter of fact, the merchandise of the Santa Cruz Fruit Packing Company that was on the dock, loaded out of cars, was not handled by the stevedores, was it?

A. No sir.

Q. And why not?

A. Because it is a sister local and they meant to help us.

Q. Who did you talk with in connection with Local 38-79 about the matter of your desire to have help from the sister local in connection with the Santa Cruz Fruit Packing [408] Company?

A. Taken up with the meeting before the membership.

Q. The membership of 38-79?

A. Yes sir.

Q. And was any action taken?

A. Yes sir.

Q. What action was taken?

A. They agreed not to work it.

Q. The members of 38-79 agreed not to work Santa Cruz cargo, is that correct?

A. Yes sir.

(Testimony of E. C. Woods.)

Q. They agreed not to—And by "work it," you mean handle it, that is, the unloading from the car to the dock and from the dock to the ship; is that correct?

A. Yes sir.

Q. And did you take it up with any other meeting of any other locals of the I. L. A.?

A. The bargemen.

Q. And did they take any action?

A. Yes sir.

Q. What action did they take?

A. They wouldn't load it.

Q. When was that taken up with Local 38-79 at this meeting, that is, with reference to the time of the initiation of these men on this Wednesday evening? According to your [409] best judgment was it within a few days afterwards, or immediately?

A. Yes sir, right away. All these things were taken up at the first meeting. I don't recall just when the first meeting was.

Q. Within a week anyway?

A. Yes sir.

Q. Now, in addition to taking the matter up with the locals that you have referred to, and also with the Labor Council in Oakland, the Teamsters Local in Oakland, and I understand the Teamsters Local in San Francisco, is that correct?

A. Yes sir.

Q. Do you know whether the Teamsters Local, either in Oakland or in San Francisco, took any action in so far as the request was concerned for cooperation?

(Testimony of E. C. Woods.)

A. The Teamsters in Oakland did not never go in there. The Teamsters in San Francisco never went in there.

Q. That is, your answer is that you know the ultimate fact that they didn't go in, but you don't know whether they took any official action in meetings, or anything of that kind, or do you know?

A. They had their orders, sir, not to go in there, and they must have taken official action.

Q. From whom did they have their orders?

A. The business agent was out there with me nearly all the [410] time when I was there.

Q. What business agent was that, whom do you mean?

A. I don't recall his name now. He was there on an interview with me with Mr. Huddleson.

Mr. Edises: Mr. Jackson?

The Witness: Yes sir.

Q. (By Mr. St. Sure) And Mr. Jackson, you understood to be a business agent of Local 70, the Teamsters' union, was there with you at the plant, and you say he gave orders to union teamsters not to go into the plant?

A. Yes sir.

Q. And you heard such orders given?

A. I did.

Q. Now, was anything done to take up the matter of the Santa Cruz Fruit Packing Company cargo or merchandise being declared hot, with locals anywhere else on the Coast or elsewhere in the country?

(Testimony of E. C. Woods.)

A. The teamsters of San Francisco.

Q. Any place outside of the San Francisco Bay area that you know of?

A. Sacramento.

Q. And with whom was it taken up there?

A. The Bargemen and the Teamsters.

Q. And was any action taken by the locals at Sacramento?

A. Yes sir. [411]

Q. What action was taken?

A. They wouldn't touch it.

Q. Was anything done, do you know, to contact or discuss the situation with members of the Railroad Brotherhoods or any of those unions?

A. We never went very far into the Railroad Brotherhoods for the simple reason that we knew that they would have to refer it back so far, and it takes months to get any action through the Railroad Brotherhoods, and that is the reason we didn't take it up through them.

Q. Did you know of the actions of a Mr. Moore, or Mr. Heide in connection with what was claimed to have been an attempt to derail a switch engine there at the Santa Cruz plant?

A. If I may be allowed, that is out in this case and——

Mr. Edises: Just a minute, Mr. Woods. You can answer the question yes or no. If you know something of your own knowledge, you can testify to it; otherwise you don't know anything about it.

A. I don't know anything about it.

(Testimony of E. C. Woods.)

Q. (By Mr. St. Sure) Do you know Mr. Moore?

A. I do.

Q. Has he any connection with Local 38-44 of the I. L. A.?

A. Yes sir.

Q. What connection did he have at the time in the month of [412] August when this situation existed at the Santa Cruz plant?

A. I don't know anything about it.

Q. Well, I mean what connection did he have with the union. Was he simply a member of the Local, or did he have any office?

A. He was a member of the Local.

Q. Did he have any particular duties assigned to him in connection with the Santa Cruz plant?

A. Not any more than any other part of the Local, no.

Q. Was he assigned to picket duty there?

A. He was a member of the strike committee; that is all.

Q. A member of the strike committee?

A. Yes.

Q. And as a member of the strike committee what were his duties in connection with the situation at the Santa Cruz Fruit Packing Company?

A. His duties would be the same as they would be for anything else; that is all.

Q. Well, I don't know what his duties are for anything else, Mr. Woods. Did he have anything at all to do, or was he supposed to be there at any

(Testimony of E. C. Woods.)

particular time, or was he supposed to do anything while he was there?

A. He wasn't supposed to be there only when he wanted to go there—that is all—the same as any other member of the Local. [413]

Q. Why did you have a strike committee? I mean, what was the purpose of that committee?

A. They were to take up the affairs of the strike in the hall when they were called on.

Q. And do you know a Mr. Paul Heide?

A. Yes sir.

Q. That is spelled H-e-i-d-e?

A. Yes sir.

Q. What was his status? Was he also a member of this strike committee?

A. Yes.

Q. And did you see Mr. Moore or Mr. Heide out there at the Santa Cruz plant at any time?

A. I have not.

Q. You didn't see them in that vicinity at all?

A. No sir.

Q. At any time?

A. No sir.

Q. Were you likewise a member of the strike committee?

A. All officers are; they are permitted to sit in on them. They are not a member of them.

Q. Did you sit in on the meetings of the strike committee?

(Testimony of E. C. Woods.)

A. Not at this particular time, no; not of this action. In other words, in connection with the Santa Cruz action of the strike committee, I never got a chance to sit in on [414] those meetings. I was too busy otherwise.

Q. Do you know a man by the name of Moran, who is a member of the Local Teamsters' Union?

A. Yes sir.

Q. And was he out there at the Santa Cruz plant on any occasion that you know of?

A. No, I don't remember, don't recall seeing him out there.

Q. Did you ever talk with him concerning the situation at the Santa Cruz plant?

A. Lots of members I have talked to concerning it. I don't recall any conversation.

Q. Have you any knowledge concerning the incident when Mr. Moran participated in the alleged kidnaping of a driver from the Santa Cruz plant, and as a result of which there is a felony warrant out for him?

Mr. Edises: I want to offer the objection to the question in that it apparently assumes matters which are not in evidence.

Mr. St. Sure: I would be glad to produce the warrant if necessary. The sheriff's office will bring it over.

Mr. Edises: I personally have no knowledge of these facts you refer to, Mr. St. Sure. I think if you ask the witness a question not framed in that particular form, that he might testify to whatever knowledge he has of activities along that line. [415]

(Testimony of E. C. Woods.)

Mr. St. Sure: I take it the Examiner can distinguish that my statement is for the purpose of identifying this particular Mr. Moran and isn't evidence of the fact there is a warrant out.

Mr. Edises: I don't want to start the practice of objecting but it seems we are getting a little off the track. I fail to see that this particular line of testimony has any particular relevance to the issues in this case. If it has, I have no objection to its going in.

Trial Examiner Traynor: They seem a little afield. The relevancy may come out as further questions are asked. We will wait for the answers.

Mr. Edises: I would like to have Mr. St. Sure indicate the purpose for which he is asking these questions. If their relevance appears, I will withdraw my objection.

Mr. St. Sure: It is alleged in the complaint, among other things, that the management coerced the employes and intimidated them—I forget just the language—and also that the reason for discharge and failure to re-employ was on the basis of union activities, in the sense that they joined the union. I would like to develop the picture, if we may, as to what the situation was there and what pressure, if any, was exercised and from which side it came. That is my only thought in the matter.

Mr. Edises: That would probably be legitimate, but brings in Mr. Moran, or the teamsters—— [416]

Mr. St. Sure (Interrupting): They called upon the teamsters and officially obtained their aid, and a

(Testimony of E. C. Woods.)

delegate or business agent of theirs, Mr. Woods says, was there most of the time. Mr. Moran was a member of this union and he did participate in some of these things that happened up there.

Mr. Edises: I fail to see how anything brought out, by any stretch of the imagination, can be chargeable to the union, but go ahead and question him on it if you wish.

Trial Examiner Traynor: You may proceed, Mr. St. Sure.

Mr. St. Sure: Read the question, Mr. Reporter.

(The question referred to was read aloud by the reporter as above recorded.)

Mr. Edises: As to that question, I will have to object unless it is established by the laying of a foundation that in some way or other the union concerned in this proceeding had some connection with that incident, if it occurred.

Mr. St. Sure: I will withdraw the question for the time being.

Q. (By Mr. St. Sure) Have you any knowledge concerning an incident which occurred wherein a driver and other employes of the Santa Cruz Fruit Packing plant went to a commercial warehouse to obtain delivery of some merchandise and were assaulted by any of the persons who were there on the picket line, or assisting the picket line at the Santa Cruz plant? [417]

A. Could you name any definite place, or put that question a little more plainly?

(Testimony of E. C. Woods.)

Q. I am referring to a matter which I understood occurred the day of—or the day before this incident which was testified to concerning the truck going up to the kitchen there that night when the Santa Cruz men and the members of the picket line had a "downey-brook" there?

A. I would like to answer thoroughly. There was no trouble that day or the day before that, with any one. In fact, we were very rushed right then with men and we had pulled nearly every man off the picket line and put them on the warehouses, and nearly every one was working and we had about five or six men out there that day; and I know that there was no trouble anywhere the two days previous to that kitchen raid.

Q. When you say you know there was no trouble, what you mean, I take it, is as far as you know you have no knowledge of any trouble?

A. I have no knowledge of it, and I don't know where they could get the men to have any trouble with, because they were all working.

Q. Now, after this time when the men were replaced out there at the Santa Cruz Fruit Packing Company you told us that you on one occasion went to Mr. Huddleson's office with Mr. Bridges, and Mr. Jackson, and he was the man from the teamsters' union?

A. Yes sir. [418]

Q. Have you seen this purported transcript of a conversation that occurred at that time, which is here in evidence and marked Board's Exhibit No. 2? Have you seen this?

(Testimony of E. C. Woods.)

A. I have seen it. At this time may I be permitted to know why that was taken?

Mr. Edises: Just a moment, please. Don't volunteer any testimony. If any objection is to be made I will make it for you. Just answer the questions direct and without volunteering anything.

The Witness: I would like for you to ask that question for me.

Mr. Edises: That will be brought out, if necessary, at the proper time.

The Witness: All right.

Q. (By Mr. St. Sure) My purpose was to shorten this matter of questioning. Have you read it over and do you know whether it accurately states what was said at that time?

A. To the best of my knowledge, yes.

Q. How did Mr. Bridges happen to be present at that conversation, Mr. Woods?

A. I asked him to go there.

Q. And why?

A. Because I was trying all means that I possibly could to get those men back to work.

Q. And how did you—withdraw that—what was your belief [419] concerning Mr. Bridges' ability to assist you in that? I mean what did you think he could do?

A. I didn't seem to be able to get Mr. Huddleson to put the men back to work. I thought maybe I could try to get someone else that maybe could get to him and get them back to work.

Q. Why did you select Mr. Bridges?

(Testimony of E. C. Woods.)

A. Mr. Bridges is a very good talker and he is a very honest and capable man.

Trial Examiner Traynor: We will take a recess now for five minutes.

(At this point a recess was taken after which proceedings were resumed as follows:)

Trial Examiner Traynor: You may proceed.

Q. (By Mr. St. Sure) You wanted, apparently, to make some statement concerning the reason why that conversation was taken down. I will ask the question: why was it taken down? Was there some incident that occurred that you wanted to relate?

Mr. Edises: I think that he would hardly be the person to answer that question, Mr. St. Sure..

Mr. St. Sure: He wanted to volunteer something. I wanted to hear what it was; that was all.

Mr. Edises: I would prefer that he do not answer the question. It is not responsive to anything that is pertinent to his testimony. It simply clutters up the record. [420]

Mr. St. Sure: I assume we want to get at the facts. If there is something here in the background I would like to know what it is, what Mr. Woods has in his mind. Apparently, he was anxious, a moment ago, to volunteer something. I would like to hear what it is.

Mr. Edises: My objection is that the answer, or the statement, is unresponsive.

Mr. St. Sure: My question is what he wanted to volunteer, and if it isn't responsive or material we can strike it, or the Examiner can disregard it. We would like to get at the facts.

(Testimony of E. C. Woods.)

Mr. Edises: I think it is unimportant.

Mr. St. Sure: Perhaps the Examiner can best judge that.

Trial Examiner Traynor: You withdraw your objection?

Mr. Edises: Let him answer it.

A. The only thing that I wanted to bring out is this: That when we went to Mr. Huddleson's office, if I may be permitted to explain this, Mr. Huddleson's office is a long office; and when we went in there it seems it was all pre-arranged. He knew we were coming. He sat so he was facing his stenographer when we were all sitting with our backs to the stenographer. After we got seated the stenographer came in and sat down and the transcript was taken unbeknown to anyone.

Q. (By Mr. St. Sure) You had no objection to it being taken down?

A. No, I merely wanted to explain how it was taken; that is all. [421]

Q. The way I understand it is that the girl came in and sat down and took it down and there was no discussion about it at the time and no objection made to it, and, apparently, it is an accurate transcript, isn't it?

A. That is just what I wanted to explain. It is one-sided. He was asking the questions to try and draw something out of us to put into the transcript and to use as a discrimination against us, and we didn't know anything about it.

(Testimony of E. C. Woods.)

Q. You mean—apparently the conversation was accurately reported, wasn't it?

A. I don't try to say anything that isn't true.

Trial Examiner Traynor: He already answered the question.

Mr. St. Sure: He has.

Q. (By Mr. St. Sure) Now, did you discuss with Mr. Bridges, or with Mr. Jackson, before you went to that meeting, what statements were to be made and who was to do the talking?

A. No sir.

Q. Pardon me?

A. No sir.

Q. Page 6 of the transcript, about the middle of the page, appears this statement made by Mr. Bridges:

"Our position is very strong and we can enlist enough force to get the men back on the job, although we have tried to avoid it."

Do you know what force he had in mind, what the purpose [422] of that statement was?

Mr. Edises: I am going to object to any questions which will ask Mr. Woods the meaning of Mr. Bridges' statements.

Mr. St. Sure: It is asking for a conclusion. I will withdraw it.

Mr. Edises: The transcript itself is the best evidence.

Mr. St. Sure: I think that is correct.

(Testimony of E. C. Woods.)

Q. (By Mr. St. Sure) Now, on the first page of the transcript, about the second statement made, the first statement made by Mr. Huddleson, there is the following:

"I told you that we had no particular grievance with most of these boys out there, but some of these fellows conducted themselves in such a manner after they were out that I won't have them working for us."

The transcript then says:

"Mr. Woods: Yes, I know it."

Did you make that statement at that time?

A. I don't recall just exactly what statement was made, just referring to a couple of words in the transcript.

Q. Did you know of the conduct that Mr. Huddleson was complaining of at that time, the conduct of the men after they were out?

A. No sir.

Q. Did you know of any complaint that had been made con- [423] cerning any of the men going to Mr. Huddleson's home and, during the early hours of the morning or late at night, making disturbances there?

A. No sir.

Q. Did you ever hear of that at all up to this time?

A. No sir.

Q. In this very conversation, didn't Mr. Huddleson, at some length tell you—wait a moment and I will see if I can find it. (Referring to Board's Ex-

(Testimony of E. C. Woods.)

hibit No. 2) Don't you recall in that conversation Mr. Huddleson saying, and I am reading from page 7, about the middle of the page:

"Let me ask you something, Mr. Bridges. If you had men that had been working for you steadily for years coming around and terrorizing your home in the middle of the night, would you take them back on the job? Just put yourself in my position for a moment. How would you feel about it?"

Do you recall that statement being made?

Mr. Edises: It seems, Mr. St. Sure, that the transcript is the best evidence of what was said.

Mr. St. Sure: Yes, but I have a right to test the witness' recollection. He stated he hadn't heard at all about the men terrorizing or coming to the home of Mr. Huddleson at night.

Mr. Edises: He said prior to that interview.

Mr. St. Sure: I said up to this time. [424]

Q. (By Mr. St. Sure.) Did you misunderstand me?

A. I did, in a way. I never heard it from the men, and I don't believe the men did it.

Q. My question was did you ever hear it from Mr. Huddleson, that is, the statement that it had occurred?

A. By Mr. Huddleson, yes; but I understood you to say from the men.

Q. You do now recall Mr. Huddleson, on this occasion, did make that statement concerning the men who had worked for him, and were then out, had gone to his home at night, do you recall that?

(Testimony of E. C. Woods.)

A. I do.

Q. Now, did you know of a subsequent, or later meeting between Mr. Huddleson and Mr. Spooner, of the Central Labor Council, and Mr. Real, of the Teamsters' Union?

A. No sir, I didn't know of it.

Q. Did you know, Mr. Woods, whether or not—withdraw that—did you see, or did you have, or do you have any knowledge concerning any letter written by Mr. Huddleson to Mr. Spooner or Mr. Real concerning the situation there at the Santa Cruz plant at the time that you had this meeting with Mr. Bridges and Mr. Huddleson and Mr. Jackson?

A. No sir.

Q. As far as you know that matter, the contents of a letter or that letter was not called to the attention of yourself [425] or the officers of the union at that time?

A. No sir.

Q. Did you have any contact with, or discussion with Mr. George Real or Mr. Spooner following this meeting with Mr. Bridges, Mr. Jackson and yourself and Mr. Huddleson?

A. I was up to see Mr. Real several times, and I was up to see Mr. Spooner several times.

Q. Did you, on any occasion, ask them, or suggest to them or discuss with them that they go and call on Mr. Huddleson?

A. No sir.

Q. You don't know whether they did or not?

(Testimony of E. C. Woods.)

A. No sir, I do not.

Q. Can you tell me, Mr. Woods, over how long a period of time the situation continued that you described, that is, where members of affiliated unions or sister locals of the I. L. A., refused to handle or work merchandise of the Santa Cruz Fruit Packing Company?

A. I don't recall just how long.

Q. Pardon me?

A. I don't recall just the length of time.

Q. It was a matter of some weeks, wasn't it?

A. Yes sir.

Q. And what occurred, if you know, to cause the removal of the direction or the order that that cargo should not be handled? [426]

A. Repeat that.

Q. I will withdraw that and reframe it. Later on, that is, after some weeks had gone by, the cargo was again handled wasn't it?

A. Yes sir.

Q. What brought about the change in attitude, can you tell me?

A. The unions themselves were responsible for that, I am pretty sure.

Q. Did the ruling of Judge Sloss, to the effect that the refusal to handle the cargo was a violation of the October 1934 Arbitration Award have anything to do with it, do you know?

A. It may have.

Q. You know that it did, don't you?

A. I can only speak for my own union.

(Testimony of E. C. Woods.)

Q. Well, in so far as your own union is concerned, did it have anything to do with this decision to handle the cargo thereafter?

A. No, we didn't handle it.

Q. Pardon me?

A. We didn't handle it. We gave permission for it to be handled; that is all.

Trial Examiner Traynor: Can't you answer the question?

The Witness: I did as near as I could. We didn't handle the cargo, our union didn't. I am not speaking for [427] the rest of them.

Q. (By Mr. St. Sure) Put it this way: Did your determination, that is, a decision of your union to give permission, you say, for the others to handle it, have any relation to the Sloss ruling?

A. We didn't want no other union to lose its agreement on account of us.

Q. I take it from that answer that your decision to give permission, as you say, did have reference to and was affected by the Sloss ruling, is that correct?

A. Yes sir.

Q. Do I understand that without your having given permission to the other unions to handle the cargo, that the situation would have continued and the Santa Cruz cargo would have been hot?

A. It may have.

Mr. Edises: I think that that question is speculative and hypothetical and that, under the circumstances, the answer ought to be stricken.

(Testimony of E. C. Woods.)

Trial Examiner Traynor: I think so. The answer to that question may be stricken.

Q. (By Mr. St. Sure) Why did your union communicate to other unions the fact that those other unions had your permission to handle this cargo?

A. Why did the other unions ask us—state that again? [428]

Q. Either way—why did you communicate to the other unions that they had your permission to handle the cargo, or why did they ask you for permission, whichever way it happened?

A. I answered that question.

Q. May I ask you to answer it again. Perhaps I didn't get the answer clear.

A. We didn't want any union to subject itself to the losing of its contract or agreement on the account of another union.

Q. My point, the point of this question was this: I am asking now from the point of view of your union, why did you feel it necessary to communicate to the other unions the fact that they had your permission to handle this cargo?

A. That question, I think, was answered very plainly.

Trial Examiner Traynor: Please answer it again.

The Witness: That question, the way it is put, and the way I understand it, you want me to tell you why we gave permission to the other unions to handle the cargo. Well, the reason was that Judge Sloss passed the decision the way he did and we

(Testimony of E. C. Woods.)

gave the other unions permission to handle the cargo.

Q. (By Mr. St. Sure) Well, we are talking somewhat at cross purposes, and perhaps it is because of the fact that the question I previously asked did call for your conclusion. The thing I am getting at is this: I understand clearly from your statement that the reason you granted the permission was because you didn't want the other unions, in the face of this [429] award, to be violating any agreement.

A. True.

Q. But the purpose of my question is, why was it necessary for your union, which is merely an affiliate of the other unions, to give them permission before they could resume handling the cargo? In other words, what is the relationship, or what was the relationship, at that time, or what was the understanding between your union and the sister locals, that made it necessary for you to give them permission before they resumed the handling of the cargo?

A. The unions all try to work together as much as possible.

Q. And they had been working together in this situation?

A. They had.

Q. By refusing to handle the cargo, is that correct?

A. Yes sir.

Q. That is, whether the men that had the actual handling of it were members of 38-44 or 38-79, or 38-100, or any of the locals?

441

(Testimony of E. C. Woods.)

A. That is true.

Q. Do you know whether anything was done to inform the members of the various unions, that is, the teamsters and the various locals of the I. L. A., of the names of the brands under which Santa Cruz Fruit Packing Company's products were canned or packed?

A. All the brands were given to all the Locals. [430]

Q. Pardon me?

A. All the brands were given to all the Locals.

Q. And for what purpose? I mean why was that done?

A. So they would know what was Santa Cruz and what wasn't.

Q. And I assume that for the purpose of making sure they didn't handle Santa Cruz brands that might be under some name other than Santa Cruz, is that correct?

A. No sir.

Q. Pardon me?

A. No sir; it was to be sure they didn't get something that wasn't Santa Cruz.

Q. I don't understand you on that. Would you explain that answer, please?

A. Well, in other words, it was to, so that they wouldn't—

Q. (Interrupting) Hold up some body else's merchandise?

A. Yes.

(Testimony of E. C. Woods.)

Q. It amounts to the same thing but we were talking about it in opposite directions. But in any event, it was for the purpose of identifying everything that came out of the Santa Cruz plant, is that correct?

A. Yes sir.

Q. Now, you mentioned that you notified the members of the sailors' union at the time that the Santa Cruz cargo was declared hot. Did that union, or did any of the locals of the sailors' union take any action in connection with the [431] matter, do you know?

A. Yes sir.

Q. What action did the sailors' union take?

A. They wouldn't handle the cargo.

Q. Well, what handling of the cargo did the sailors have? I mean do you know what that entailed or what that involved, that refusal on the part of the sailors to handle the cargo of the Santa Cruz plant?

A. Yes. On the steam schooners, in the hold in the ship the stevedores worked.

Q. How about in the deep sea ships, do you know what action, if any, they took with reference to handling of Santa Cruz cargo on deep sea ships?

A. On the deep sea ships they didn't handle cargo.

Q. Did they take any action as to the handling of that cargo, do you know?

A. They couldn't take it because they don't handle it; it was only on the schooners.

(Testimony of E. C. Woods.)

Q. Now, do you recall, and do you know, Mr. Woods, that during the time that this hot cargo situation continued that members of 38-79 refused to load or unload, or handle Santa Cruz merchandise when requested to do so by their employers?

A. What is that again?

Mr. St. Sure: Please read the question, Mr. Reporter.

(The question referred to was read aloud by the reporter, as above recorded.)

A. Sure, they refused. [432]

Q. (By Mr. St. Sure) And likewise the warehousemen members of Local 38-44 refused to handle it, is that correct?

A. Yes sir.

Q. And during the time, that is, from say 7 of August until the time the hot cargo ban was lifted, the picket line was maintained or kept on there at the Santa Cruz plant all during that period, wasn't it?

A. Yes sir.

Q. And why was the picket line removed?

A. After the ban was lifted?

Q. Yes.

A. There wasn't any need of having a picket line there. If they have a picket line there the teamsters wouldn't go through, or any other union man.

Q. Well, had the situation changed in so far as your own union was concerned with reference to the Santa Cruz Fruit Packing Company when the hot cargo ban was lifted?

(Testimony of E. C. Woods.)

Mr. Edises: Will you read that question, Mr. Reporter?

(The question referred to was read aloud by the reporter as above recorded.)

Mr. St. Sure: I will withdraw that and ask this question.

Q. (By Mr. St. Sure) At the time that the hot cargo ban was lifted the employes who were out at Santa Cruz were still out, weren't they? [433]

A. Yes sir.

Q. And you had reached no agreement with the management of the Santa Cruz plant?

A. No.

Q. Was the picket line maintained before the time of the Sloss ruling for the purpose of—for what purpose?

A. The picket line was maintained for what purpose?

Q. Yes?

A. The same as any other picket line remained, I suppose, to try to get the men back.

Q. How can pickets assist in doing that?

A. By these affiliated unions, I suppose.

Q. Well, I am asking you for information, Mr. Woods. I am asking just what the pickets were to do and what their purpose was in being at the Santa Cruz plant from the time that the men were out at work until the time that the Sloss ruling was made, at which time the hot cargo order was lifted. I mean, why were the pickets there in that interval?

A. The pickets were there to notify all people

(Testimony of E. C. Woods.)

going in and out of there that there was a lockout at the Santa Cruz Fruit Packing Company, and to try to get them, through a peaceful method, to not go in and take some working man's job that had been locked out and put on the street.

Q. And that was the only purpose for the picket line being there? [434]

A. That was the purpose.

Q. And after the Sloss ruling the men were still out of work, is that correct?

A. Yes sir.

Q. And the same reason existed, didn't it, for the pickets to be there and notify all people that these men were locked out, and after the Sloss ruling?

A. It was taken up, put up with the Wagner Bill and put into their hands at that time and the pickets were taken off awaiting this trial, I suppose, whatever you call it.

Q. Well, was there any connection with the—what I am getting at, the removal of the pickets and the Sloss ruling—

A. (Interrupting) Was there any connection?

Q. Yes.

A. Well, after the Sloss Bill was put into effect, why, it was put into the hands of—in other words, the complaint was turned into the Wagner Bill, and there wasn't any more use for pickets out there. They just waited the action of the Wagner Bill.

Q. Well, you say the use for which the pickets were placed originally was to peacefully notify persons going in and out of the plant that you re-

(Testimony of E. C. Woods.)

garded conditions there as unfair to your organization, is that correct?

A. True.

Q. And that same condition existed and continued, from your [435] point of view, after the Sloss ruling and even up to this time, is that correct?

A. It still contains, yes; but we figured that after it was put into the Sloss Bill that they would handle it.

Mr. Edises: By the Sloss Bill what do you mean?

Mr. St. Sure: I assume that he means under the Wagner Bill, the Regional Labor Board.

Q. (By Mr. St. Sure) Was there any reason why the matter was not referred by your union to the Regional Labor Board before the time of the Sloss award?

A. We were trying every way that we possibly could to have a peaceful settlement without taking it any further.

Q. Well, you mentioned at the outset that one of the reasons that the teamsters' union was notified about your view of the situation was so they would not go into or out of the plant. That was your reason for notifying the teamsters' local, wasn't it?

A. Yes sir.

Q. That was one reason why,—or the reason why the picket line was maintained thereafter?

A. Yes sir.

Q. What has occurred to change the situation in so far as your union is concerned, if anything has

(Testimony of E. C. Woods.)

changed it, with reference to the teamsters going into and out of the Santa Cruz plant at this time?

[436]

A. After it was put into the hands of the Wagner Bill we had taken the pickets off, for the simple reason that the Wagner Bill was to handle it then.

Q. Well, the pickets themselves didn't physically stop these truck drivers, did they, as I understand it?

A. No sir.

Q. And the only thing that they were there for was to remind the union teamsters that conditions were not fair within the plant, from your point of view?

A. That is true, sir.

Q. And those same conditions exist now, from your point of view?

A. Well, it seems to me that there are two ways of taking that. We have no pickets there now, as I told you before, because it has been put in the hands of the Wagner Bill; that is why that the pickets were taken off, and the result is waiting the answer of the Wagner Bill.

Q. At the time the pickets were removed, did you send notice or information to the Teamsters' Union as to what policy they would pursue, or what you would suggest they do from that time on?

A. No sir.

Q. Did you advise them that the picket line was being removed?

A. Yes sir. [437]

(Testimony of E. C. Woods.)

Q. Did you advise them to continue or not to continue to stay away from the plant?

A. We did not.

Q. Didn't give them any advise one way way or the other?

A. No sir.

Q. Did you inform them whether or not your controversy with the Santa Cruz Fruit Packing had been adjusted, or whether it had not?

A. We advised them it was being taken up by the Wagner Bill.

Q. At the time that Mr. Anger came to you in connection with the matter of the employes of the Santa Cruz Fruit Packing Company, who were working in the warehouse and affiliating themselves with your local, did you know what the conditions of work were, that is, with relation to wages and hours in other canneries in this locality, except those that you mentioned the other day, Rosenberg, Libby, McNeill & Libby, and Plant 48?

A. That is all, sir.

Q. You didn't know what the conditions were in the other canneries, say Hunt Brothers or Ball's, or any of the rest of them?

A. No sir.

Q. Did you make any inquiry or attempt to find out what the conditions were in those other canneries. [438]

A. I only knew the conditions of the plants that we had.

(Testimony of E. C. Woods.)

Q. Did you know, for instance, how many other canneries there were in Alameda County?

A. No sir.

Q. You didn't know what they were paying, and, if there were other canneries, what their scale was?

A. No sir.

Q. Or whether Santa Cruz was higher or lower, or where it was with reference to the others, except the ones you say you had an agreement with?

A. No sir.

Q. Did you afterwards, at the time the contract or form was forwarded to Mr. Huddleson, make any inquiry or get any knowledge concerning those matters, that is, what the conditions were in other canneries, and the number of other canneries there were, and things of that kind?

A. Only from some of the information that I got from some of the canneries that we had.

Q. You mean Libby, McNeill & Libby, Rosenberg and Plant 48?

A. Yes sir.

Q. Mr. Huddleson told you, I believe you stated, that one of the objections that he had was being singled out for an increase in wages, and which his competitors were not paying—didn't he say something of that kind to you?

A. Yes sir. [439]

Q. At that time, did you then make any inquiry to see whether or not he was paying about the same rate as the other canneries were paying, or what the other canneries were paying? Did you make any

(Testimony of E. C. Woods.)

effort to find out about that situation that he complained of?

A. No sir.

Mr. Edises: Will you read the question, Mr. Reporter?

(The question referred to was read aloud by the reporter, as above recorded.)

Q. (By Mr. St. Sure:) Did the rules, regulations or laws of your organization, Mr. Woods, state whether or not a man who is a member of your union can work in the same plant or place with men who do not belong to your organization? I mean within the same warehouse, for instance?

A. There is no objection to working with a non-union man.

Q. Is there any objection to working with a man, for instance, who has worked during the period since the 6th of August at the Santa Cruz plant, and where the men have worked, as you would say, under strike conditions?

Mr. Edises: I submit that the question might be framed in a somewhat more specific fashion.

Mr. St. Sure: You frame it. I think you have in mind what I want.

Mr. Edises: I am aware of what you expect to elicit from the witness but the question would cover a number of [440] different situations as to each of which situations conceivably there might be a different attitude.

Mr. St. Sure: I will withdraw the question.

(Testimony of E. C. Woods.)

Q. (By Mr. St. Sure) Is there any rule, regulation or law, written or unwritten, of your organization, Mr. Woods, which says that members of your organization should not work in the same warehouse, we will say for instance, with the employes of Manuel Gomez, who now has the contract with the Santa Cruz warehouse?

A. There is no law in the union, no. The union might have an objection to holding some of the men off and leaving some of these union men out; the men themselves, but there is no objection to working with a non-union man.

Q. And that answer, I take it, stands even though a non-union man has worked during the period of time they have been going through at the Santa Cruz plant, and which we may refer to roughly as under strike conditions?

A. Yes sir. As long as the union men are put back, I don't see any objection. The union won't have objection to that man working.

Q. Well, did you have any feeling in connection with matters of that kind? I mean men who have been employed, say, as strike breakers?

Mr. Edises: I submit the question as to whether he has any feeling in the matter is improper. [441]

Mr. St. Sure: I have a purpose in asking that because the contract submitted specifically refers to that matter and that is why I am asking it in this rather informal fashion. I will withdraw that and ask another question.

(Testimony of E. C. Woods.)

Q. (By Mr. St. Sure:) You are familiar with this contract, or the form submitted to Mr. Huddleson, are you not?

A. Yes sir.

Q. And why do you have in that contract form the statement that the employer should agree that he will not intentionally employ any non-member of Local 38-44 during the period of one month—and that is for the purpose of the contract and that, after the one month period, further negotiations were to be had—who has previously worked as a strike breaker? Why it that in the proposed contract?

A. That is put in there for the reason not to leave a union man out and put a strike breaker in in his place. That is what that is put in for.

Q. I am going to read the entire paragraph so there will not be any misunderstanding. I am reading paragraph (c) of the Proposed Contract, page 3:

"The employers will for one month from date hereof, if none of their regular employes is available, employ as extra help members of Local 38-44; provided, however, they retain the right to employ an occasional man who is not such a member. Employers agree that they will not intentionally [442] employ any non-member of Local 38-44 during the period of one month who has previously worked as a strike-breaker. At the end of the month mentioned above, the parties to this contract shall appoint committees, who will immediately confer and discuss the advisability of continuing the arrangement out-

(Testimony of E. C. Woods.)

lined in said paragraph. If, in the opinion of the party of the second part,"—that is the union—"an employe of one of the employers has been unfairly discharged, the employers agree that they will, when called upon, discuss his discharge through the grievance committees hereafter referred to."

You say that reference in the agreement not to intentionally employ a non-member of the union who had worked as a strike-breaker had reference only to retaining strike-breakers at the expense of members of the union, is that your understanding of it?

Mr. Edises: Just one moment. It seems that the contract is pretty clear; it is in writing and the meaning of it, under the circumstances, ought to be for the Examiner if there is any question about it.

Mr. St. Sure: I am not asking for his interpretation of the contract. I am asking for Mr. Woods' understanding of it, in view of the fact that he submitted it and in view of his present statement that there is nothing at all from the union point of view to working with a strike-breaker. I want to know why it is in the contract. He is the man author-
[443] ized to negotiate this matter, as I understand it.

Mr. Edises: That is calling for the interpretation, is it not, of this witness?

Mr. St. Sure: I am not asking for his interpretation, but his own views of the matter.

Trial Examiner Traynor: As to why that was inserted in the contract? I think he can be asked why

(Testimony of E. C. Woods.)

that provision was inserted in the Proposed Agreement.

The Witness: It didn't appear he was asking that particular question.

Mr. St. Sure: Pardon me?

The Witness: It didn't appear to me you were asking why that was inserted in the contract.

Q. (By Mr. St. Sure:) I don't want to have any misunderstanding. I will ask you, having read the whole paragraph—perhaps it is the fairer thing to do than ask the question originally—having heard the paragraph read, now I will ask you why that particular sentence that I previously referred to, that the employer would not intentionally employ any non-member during the period of one month, who had previously worked as a strike-breaker, why that was in the contract?

A. As I stated, that was put in the contract so the union men would all have the preference first.

Mr. St. Sure: I take it that, ordinarily, I must be satisfied with the answer. I don't want to pursue it any [444] further anyway.

Q. (By Mr. St. Sure:) I notice the original letter which is Board's Exhibit No. 4, copy of it, which was the letter of transmittal accompanying the formal contract, which was signed by Mr. Daniel V. Flanagan—he was an officer of 38-44?

A. He was the secretary.

Q. He is still the secretary?

A. No sir.

(Testimony of E. C. Woods.)

Q. Did you discuss with Mr. Flanagan the matter of his sending that form of contract to the Santa Cruz Fruit Packing Company?

A. I told him to.

Q. Now, the next letter, copy of which is Board's Exhibit No. 5, dated August 10th, that letter you sent yourself? I am simply comparing the originals. Apparently, the copies are in order. Following the time that you went to Mr. Huddleson's office with Mr. Bridges and Mr. Jackson—I am probably repeating myself on this but I am about to conclude my examination—did you again see Mr. Huddleson after that at all?

A. After I went with Mr. Bridges?

Q. Yes.

A. Not as I recall.

Mr. St. Sure: I think that is all. I don't want to keep Mr. Woods here after the adjournment, unless counsel desires to take him on some other matters. So I have completed my examination at this time. [445]

Trial Examiner Traynor: We will recess until 2 o'clock.

(Whereupon, at 12:00 o'clock noon a recess was taken until 2:00 o'clock p. m.)

After Recess.

(The hearing was resumed at 2:00 o'clock p. m., pursuant to the taking of recess.)

E. C. Woods, the witness on the stand at the time of recess, resumed the stand and testified further as follows:

(Testimony of E. C. Woods.)

Redirect Examination.

Q. (By Mr. Edises) Mr. Woods, during your cross examination you were asked several questions in regard to whether or not written agreements had been entered into with certain cannery warehouses, other than the Santa Cruz. As business agent of the warehousemen's union, are you in a position to state whether or not, if the Santa Cruz Fruit Packing Company had been willing to pay 62½¢ an hour you would have waived a written agreement with them?

A. I don't see any reason for why they shouldn't have done it.

Mr. Edises: What was the answer, Mr. Reporter?

(The answer referred to was read aloud by the reporter, as above recorded.)

Q. (By Mr. Edises) I should have stated, perhaps, that in the case of these other plants, according to my recollection of your testimony, your willingness to waive the written agree- [446] ment was based on the fact that they paid 72½¢ an hour, is that correct?

A. Yes sir.

Q. Which was 10¢ above the union scale?

A. Yes sir.

Q. And if Santa Cruz had been willing to have paid that would you have insisted upon a written agreement?

A. No sir.

Q. In the event that the Board should order the reinstatement of these men, and they were given

(Testimony of E. C. Woods.)

reemployment would the union put any obstacle in the way of the men returning to work?

A. No sir.

Q. Or to their doing their work efficiently as employes of the Santa Cruz Fruit Packing Company?

A. It would be to their interest to do the work better than they ever did it before.

Q. Then, I understand your testimony to be that the union would offer no obstacle of any kind to their doing their work efficiently as employes of the Santa Cruz Fruit Packing Company?

A. They would not.

Q. Was Mr. Moore or Mr. Heide, the persons referred to on your cross examination, or any other member of the strike committee or of the union, or of any affiliated union, or sympathetic union, ever given any instructions in regard to de- [447] railing any freight car or railroad equipment?

A. No sir.

Q. Or suggestions in that respect?

A. The union is very strongly against any violence whatever.

Q. How many members were on the strike committee at the Santa Cruz plant?

A. They have no particular strike committee for any particular concern. They had a permanent, at that time, strike committee set-up and I think, I am not speaking for sure, but I think there were 8 men on the strike committee.

(Testimony of E. C. Woods.)

Q. You mentioned that there was no trouble, to your knowledge prior to the kitchen raid. What raid did you have in mind?

A. The time that the Santa Cruz men brought their truck out there, the company truck, where they had the cases piled on each side and the men were concealed inside the cases, and they got to the kitchen and they dumped the cases off and rushed the kitchen with gas guns and pipes and clubs, and everything, and they broke some of the men's arms and fractured one fellow's skull and—

Mr. St. Sure: (Interrupting) Were you there, Mr. Woods?

The Witness: No, but I seen the men in the hospital.

Mr. St. Sure: I ask that this go out, if the Examiner please, as it is certainly based on hearsay, as the witness said he wasn't there. [448]

Mr. Edises: I have no objection to that. I simply want to identify the raid.

Mr. St. Sure: I will ask that the description of what occurred with weapons go out; as to the matter of injuries, if it is material we will go into that in detail.

Trial Examiner Traynor: That may be stricken out.

Q. (By Mr. Edises) The raid that you are referring to is the one described by Mr. Doyle, is it not?

A. I don't recall.

(Testimony of E. C. Woods.)

Q. You don't recall Mr. Doyle's testimony in that respect?

A. No, I don't.

Mr. St. Sure: That was the only instance, I take it, recounted. I so understand. We are willing, for the purpose of the record, unless there is some question, to state this is the one I was talking about and questioning him about.

Mr. Edises: Very well.

Q. (By Mr. Edises) Mr. Bridges is president of the local—what is it?

A. 38-79.

Q. Yes. He is president of Local 38-79, is he not?

A. Yes sir.

Q. And the longshoremen in that local were not handling Santa Cruz cargo, is that correct?

A. No sir.

Q. Was there any connection between that fact and the [449] presence of Mr. Bridges at this interview that you have testified to between yourself, Mr. Huddleson and Mr. Jackson and Mr. Bridges?

A. That was his reason for wanting to go there.

Q. Because of the fact that the men—

A. (Interrupting) His men were out.

Q. His men were affected?

A. Yes. My reason was to see if he couldn't straighten the matter out, and his reason for going there was to try to get it straightened out on account of his men being out.

(Testimony of E. C. Woods.)

Q. You testified that you informed various other unions and locals of your union, that Santa Cruz cargo had been declared cold, is that correct?

A. Yes sir.

Q. Now, what was the nature of your communication with them at the time? Did you simply inform them that it was declared cold, or were you giving them permission to handle the cargo? You stated someone stated something about permission. I believe Mr. St. Sure used the expression first. Just what was done?

Mr. St. Sure: Just a moment! I don't think that is a fair statement to say that I used the expression first. It was Mr. Woods' expression and I questioned him concerning it. I don't think it is proper redirect to say, "Did you inform them," or "Did you use the word 'permission' ". The record speaks for itself. Mr. Woods said he notified them they had [450] permission to handle the cargo. If there is any question about it I suggest you read the record back because I don't like the implication that I first used the expression.

Mr. Edises: I am sorry. It is my recollection. If I am mistaken I will withdraw the question. I simply asked it because I believe it has not been altogether cleared up.

Mr. St. Sure: Let's read back and be sure. If you have a doubt in your mind, let's go back and see.

Mr. Edises: That is the reason I asked the question, but I may be mistaken.

(Testimony of E. C. Woods.)

Mr. St. Sure: Perhaps it is best to say my objection goes to the form of the question.

Q. (By Mr. Edises) Can you state, Mr. Woods, just what was done when you communicated with the other unions in regard to the cargo no longer being hot?

A. We did so after the complaint was filed.

Q. By the complaint you mean the charge that was filed with the National Labor Relations Board?

A. Yes sir.

Q. And what did you say to these unions at the time?

A. We told them, we informed them that we had filed a complaint and we were taking the pickets off.

Q. Was anything further stated to them?

A. Not as I recall; no sir.

Q. Do you know the date of Judge Sloss' decision in regard to the hot cargo issue, the last decision of his, I mean? [451]

A. Do I know the date?

Q. Yes.

A. No, I don't recall the date.

Mr. Edises: Do you have it there, Mr. St. Sure?

Mr. St. Sure: I may be able to find it here in the file. (Referring to file) It was in September, the latter part of September.

Q. (By Mr. Edises) Would you state, to the best of your recollection, it was in the latter part of September?

A. I think it was.

(Testimony of E. C. Woods.)

Mr. St. Sure: My own recollection, and it is purely recollection, and with the suggestion offered, is that it was about the 27 of September. It was along in that last week in September, according to my recollection. If that is close enough for your purpose we may agree that is the time, subject to correction if we find another date more accurate.

Mr. Edises: That is agreeable.

Q. (By Mr. Edises) Do you know when the warehousemen's union first got in touch with the National Labor Relations Board in regard to the Santa Cruz situation, and with the object in view of filing a charge against the Santa Cruz Fruit Packing Company?

A. The date—I think it is on the record, but I don't recall the date.

Mr. St. Sure: I haven't questioned your——

Mr. Edises: (Interrupting) The first record we have of [452] the warehousemen's union coming to the Board was on August 9, 1935.

Mr. St. Sure: And expressed a complaint at that time?

Mr. Edises: I believe it was just mediation.

Mr. St. Sure: I do not think, for the purpose of showing an application for a complaint was made long before the Judge Sloss decision, we ought to have that inaccuracy about the date. I won't question your word on that, Mr. Edises.

Mr. Edises: I will ask that whatever statement or reference was made to mediation be stricken from the record, because I, at that time, was not connected

(Testimony of E. C. Woods.)

with the Board and have no means of knowing whether mediation was the subject of the first conversation.

Mr. St. Sure: I have no objection. Suppose we leave it that you are to supply for the record the date the first application was made for the complaint and that may, by statement of counsel, be placed in the record.

Mr. Edises: I will have to get the information definitely from our records in the office.

Trial Examiner Traynor: All right.

Q. (By Mr. Edises) Calling your attention to Board's Exhibit No. 3, a proposed agreement between the Weighers Warehousemen & Cereal Workers' Union and the Santa Cruz Fruit Packing Company, and specifically to Section 3, subdivision (c), [453] that is the paragraph which I believe was read to you by Mr. St. Sure, is it not?

A. Yes.

Q. Does the provision therein in regard to preference in employment have reference to regular help or to extra help?

Mr. St. Sure: I think you mentioned this morning the contract spoke for itself. If you want to know Mr. Woods' understanding I take it you can ask for that, but as to what the contract itself means I take it it is a matter, as you objected this morning, for the interpretation of the Board itself.

Mr. Edises: My question was only directed to clearing up the matters gone into on cross, and it is the only question I have in that connection.

(Testimony of E. C. Woods.)

Mr. St. Sure: I have no objection to your asking what his understanding of the matter is.

Q. (By Mr. Edises) What is your understanding—you have read the section, haven't you?

A. Yes sir. That is the regular men.

Q. Read it aloud.

A. You read it and I will answer your question.

Q. The section reads: "The employers will for one month from date hereof, if none of their regular employes is available, employ as extra help members of Local 38-44; provided, however, they retain [454] the right to employ an occasional man who is not such a member." Does that refer to regular help or extra help?

Mr. St. Sure: I will stipulate that the words, "extra help" appear in the paragraph, but beyond that it is a matter of interpretation from reading the agreement.

Mr. Edises: That is all, Mr. Woods.

Recross Examination.

Q. (By Mr. Edises) Mr. Woods, you made the statement that at the time Mr. Bridges went with you to see Mr. Huddleson, and Mr. Jackson was also there, that Mr. Bridges was present because his men were out and he wanted to straighten the matter up as far as they were concerned. Do I understand that some of the members of 38-79 were not working at that time by reason of the Santa Cruz cargo being declared hot?

A. Several gangs.

(Testimony of E. C. Woods.)

Q. What time was it that several gangs you say were not working because of the fact that Santa Cruz cargo had been declared hot?

A. What time, what date?

Q. Yes.

A. I don't recall just what date. It was the time that there were several gangs of warehousemen let out from Encinal and Howard, and several of the gangs of stevedores from San Francisco. [455]

Q. That was in August?

A. Yes sir.

Q. They were let out for what reason?

A. Because they wouldn't handle Santa Cruz cargo.

Q. Aren't you confusing the time and the occurrences in August with occurrences that happened about a month later in September?

A. Well, I wouldn't be sure of the time, just what time it was.

Q. But at the time that Mr. Bridges and you and Mr. Jackson went to see Mr. Huddleson it was along in August sometime, wasn't it?

A. There had been some of the gangs laid off then.

Q. At the time you went there?

A. Yes sir.

Q. Is it your recollection that some of the gangs were laid off at Howard, Encinal and other terminals because they wouldn't handle Santa Cruz cargo?

A. I wouldn't say some of the gangs but some of the particular men had been. Later the gangs were laid off too.

(Testimony of E. C. Woods.)

Q. Isn't it your recollection, Mr. Woods, that at the time that you and Mr. Bridges and Mr. Jackson went to see Mr. Huddleson that the only laying off of men, so far as the handling of cargo was concerned, was the result of their own refusal to do certain work? I mean the only lack of work on their part was because they had refused to handle certain cases that were on the dock, isn't that correct?

[456]

A. The cases you mean that had been on there, on the dock, before or after?

Q. Either or both, Santa Cruz—river lines.

A. They had never refused to handle any cases that were put on the dock before the lockout.

Q. Let's talk about those that were put on afterwards.

A. Yes sir.

Q. The only resulting lack of employment, so far as members of Mr. Bridges' union were concerned at that time, when you went there with Mr. Bridges and Mr. Jackson to see Mr. Huddleson, was because the men themselves refused to handle certain cargo, isn't that correct?

A. That is correct, the Santa Cruz cargo.

Q. And they handled everything else that was around, except river lines, at the time, is that correct?

A. That is right.

Q. Isn't it your recollection, Mr. Woods, that it wasn't until along later, rather late in the month of September, that men were discharged by the ter-

(Testimony of E. C. Woods.)

minal operators on the docks for refusing to handle Santa Cruz cargo?

A. That was on a big scale, yes.

Q. Did you have any information of any discharge or suspension of any men from work at any particular instance before that time, for refusal to handle Santa Cruz cargo?

A. I haven't their names, no. [457]

Q. Well, can you give us any dates or places, or any other way to identify the time that you say the men were laid off before that general operation?

A. I think they have a record of them in the office.

Q. Can you get it?

A. I will try.

Q. All right, I wish you would.

A. Yes.

Mr. St. Sure: I think that is all.

Mr. Edises: One more question, if I may be permitted.

Redirect Examination

Q. (By Mr. Edises) At the time that you, Mr. Bridges and Mr. Jackson went to interview Mr. Huddleson, the men of 38-79, Mr. Bridges' local, had declared themselves against handling Santa Cruz cargo, is that correct?

A. Yes sir.

Mr. Edises: That is all.

(Testimony of Frank Granada.)

Mr. St. Sure: That is all.

(Witness excused.)

Mr. Edises: Mr. Granada.

Mr. St. Sure: September 27, 1935, is apparently the date of the Sloss ruling. [458]

FRANK GRANADA,

called as a witness for the National Labor Relations Board, being first duly sworn, testified as follows:

Direct Examination.

Q. (By Mr. Edises) What is your name?

A. Granada.

Q. Your full name?

A. Frank.

Q. And your address?

A. 7101 Halliday Avenue.

Q. Married?

A. I was.

Q. At the time of the recent lockout were you married?

A. I was.

Q. Did you work for Santa Cruz or Stokely?

A. Santa Cruz.

Q. When did you go to work there?

A. Two years ago.

Q. What was your job?

A. On the labeling machine, loading cars, trucking, loading trucks, all around.

Q. Who was your boss?

(Testimony of Frank Granada.)

A. Stan Torenson and Ernie.

Q. Who? [459]

A. Ernie Reich.

Q. When did you apply for membership in the union?

A. I think it was on Monday.

Q. August 5th?

A. Around then, yes.

Q. Is that the day you got your button?

A. Yes—no, I got it on Tuesday.

Q. You got your button on Tuesday?

A. Yes. They didn't have enough buttons for all, so they gave it to me on Tuesday.

Q. Were you present on Monday when Mr. Huddleson spoke to the men?

A. I was.

Q. And what did you hear Mr. Huddleson say about the union at that time?

A. Well, he says he knew that we were going to joint the union, knew about it a week ago. He said he knew all about it. He says, "If we were planning to be in the union or was we going to stay on the job?"

Q. Did he say anything else about the union?

A. Well, he says, "I don't blame you boys." He says, "I was once a union man myself for many years." He says, "I can't afford—I am not going to be the goat and be the first of the 57 canneries in California to pay it." He says he wasn't going to be the goat. [460]

(Testimony of Frank Granada.)

Q. Did he say anything about a contractor?

A. Yes. He says that if we joined the union that he will have a contractor to—we will go out through one door and he will put a contractor through the other door.

Q. Did you go to the initiation meeting Wednesday night?

A. I did.

Q. Who told you about it?

A. Mr. Bob Anger.

Q. When did he tell you?

A. Oh, in the morning about ten o'clock, Wednesday morning.

Q. What did he say at that time?

A. He said, "We are going to go to the initiation meeting tonight."

I says, "What time?"

He says, "Well, I think it will be around 7:30 or 8 o'clock." He said, "I asked Mr. Torenson if we could get off."

And I said, "What time are we going to get off?"

He says, "About 4:30."

Q. Do you know Mr. Gomez?

A. Yes, I do.

Q. Did you know him before the recent lockout?

A. Yes, I knew him from the Pacific Coast here at the 16th Street depot, the Pacific Coast Cannery Company.

Q. Had you worked for him before? [461]

A. I never did, or never have.

(Testimony of Frank Granada.)

Q. But you knew him?

A. Yes sir.

Q. When did you first see him around the Santa Cruz plant?

A. I saw him on Monday morning.

Q. What was he doing then?

A. Oh, walking around and looking around the machines.

Q. Did you speak to him?

A. No, I never.

Q. When did you see him again?

A. I saw him on Tuesday afternoon around 2 o'clock.

Q. What was he doing then?

A. Walking around again.

Q. When did you see him again after that?

A. Yes, on Wednesday.

Q. What time?

A. About 3 o'clock. I think there was a Chinaman going around with him through the aisles between the stacks.

Q. What time was that?

A. Around 3 o'clock.

Q. About how many Chinamen were with him?

A. Just one with him.

Q. If the Board orders that you be given your job back will you take it?

A. I do. [462]

Mr. Edises: That is all.

(Testimony of Frank Granada.)

Cross-Examination

Q. (By Mr. St. Sure) When you knew Mr. Gomez you say he was with the Pacific Coast Canners?

A. Yes.

Q. Do you know what his job was with them?

A. I couldn't tell you. I know he was working, but I don't know whether he was a contractor or what he was doing there. I knew he worked there for quite a while.

Q. You knew he was with the other canning concern, and they have closed up since then, haven't they?

A. What?

Q. The Pacific Coast Canners have closed up?

A. I don't know. I never worked there.

Mr. St. Sure: No questions.

Mr. Edises: That is all.

(Witness excused.)

Mr. Edises: Is Mr. Ledke here?

(No answer.)

Mr. Edises: Off the record.

Trial Examiner Traynor: Off the record.

(Discussion off the record.)

Mr. Edises: Mr. Scott, will you take the stand, please?

LESTER H. SCOTT,

called as a witness for the National Labor Relations Board, being first duly sworn, testified as [463] follows:

Direct Examination

Q. (By Mr. Edises) What is your name?

A. Lester Scott.

Q. Your address?

A. 447 Orange Street.

Q. Oakland?

A. Yes.

Q. Are you married?

A. Yes.

Q. Any children?

A. No.

Q. Did you work for Santa Cruz or Stokely?

A. Santa Cruz.

Q. When did you go to work there?

A. About a year and a half ago.

Q. Who hired you?

A. Jimmy Freeman.

Q. Was he the foreman at the time?

A. He was can stacker.

Q. What?

A. He was a can stacker.

Q. Were you working in the warehouse when you first went there?

A. Yes.

Q. What was your job? [464]

A. Well, I first got a job from him and worked from there to the warehouse.

(Testimony of Lester H. Scott.)

Q. What did you do in the warehouse?

A. On the labeling machine.

Q. Did you do other work?

A. Yes.

Q. Were you changed around from one job to another in the warehouse?

A. Yes sir.

Q. And did you at various times do all of the different jobs in the warehouse?

A. Yes sir.

Q. Did you load the cars and trucks with cases of canned goods?

A. I have.

Q. Were you subject to being called for that work at any time?

A. Yes.

Q. When did you first apply for membership in the union?

A. I think it was in July—when the rest of them did.

Q. The latter part of July?

A. Yes sir.

Q. And when did you get your union button?

A. I think I got it Tuesday.

Q. Tuesday. Were you present on Monday around 6 o'clock [465] when Mr. Huddleson spoke to the men?

A. No.

Q. You were not present?

A. No.

Q. Did you go to the meeting Wednesday night?

A. I did.

(Testimony of Lester H. Scott.)

Q. From whom did you learn about it?

A. I worked Tuesday and the men told me Tuesday there would be a meeting that night.

Q. Do you remember who told you?

A. No, I don't.

Q. When you speak of "that night" you mean Wednesday night, do you not?

A. Yes, Wednesday.

Q. Do you remember what was said to you when you learned that there was to be a meeting Wednesday night?

A. They just said "Come around to the meeting."

Q. Is your recollection of it rather hazy? If it is, say so.

A. Yes.

Q. There is no trick here.

A. Yes.

Q. Did any one ever tell you your work was unsatisfactory?

A. No.

Q. Never bawled out for poor work? [466]

A. No sir.

Q. Will you take your job back if it is offered to you by the Santa Cruz Packing Company?

A. Yes.

Mr. Edises: That is all.

Cross Examination

Q. (By Mr. St. Sure) When did you first meet Mr. Woods?

A. I didn't see him until after the meeting, when I went to the meeting.

(Testimony of Lester H. Scott.)

Q. That was the night of the initiation?

A. Yes sir.

Q. Had you ever seen the agreement that was submitted before the initiation to the Santa Cruz?

A. No.

Q. Had you ever heard it read to you, or had it read to you?

A. No, I haven't had it read.

Q. Do you know what it contained?

A. No.

Q. The answer is no?

A. No.

Q. Answer audibly because the reporter has to get the answer.

A. No.

Q. Were you ever informed that—first, did you ever [467] participate in any act of violence, intimidation, or anything of that sort, following the time that the Gomez men went on the job there?

A. No, I didn't.

Q. Were you ever informed by Mr. Woods, or Mr. Bridges, or Mr. Jackson, or any one else, that the management of Santa Cruz said it would put back to work the men who had not participated in violence?

A. I didn't get that.

Q. Did anybody ever tell you that Mr. Huddleson said that he would reemploy the men who had not taken part in acts of violence?

A. No, I never heard that.

Q. Mr. Woods didn't tell you that?

A. No.

(Testimony of Lester H. Scott.)

Q. Mr. Bridges didn't tell you that?

A. No.

Q. Mr. Jackson didn't tell you that?

A. No.

Q. Were you working on the day shift or the night shift?

A. Day shift.

Q. Following the night of the initiation meeting, since that time have you yourself applied to any one in connection with the Santa Cruz Fruit Packing Company for your job, or concerning the situation so far as you personally are [468] concerned?

A. No, I haven't.

Q. You have made no effort to do so?

A. No, I haven't.

Q. Did you act as picket during any of the time, that is, from the time the picket line was first established until it was removed.

A. I did part of the time.

Q. Were you there during the daytime or the nighttime?

A. Different times.

Q. Pardon me?

A. Different times; some night and some days.

Q. During the night some of the time?

A. Yes sir.

Q. What hours were you there at night?

A. Supposed to be from 6 o'colck to 6 o'clock.

Q. From six in the evening until six in the morning?

A. Yes.

(Testimony of Lester H. Scott.)

Q. What were your duties during the night while you were there as a picket?

A. Just watching.

Q. Pardon me?

A. Just watching.

Q. Watching what?

A. Watch the trucks that go in. [469]

Q. Then what did you do? Did you look at them, or anything else, when the trucks went in?

A. Just supposed to tell them that there is a lock out and tell them not to go in.

Mr. St. Sure: That is all.

Redirect Examination

Q. (By Mr. Edises) What wages were you getting at the warehouse?

A. 35 cents an hour.

Q. What was your reason for joining the union?

A. Better working conditions.

Q. What do you mean by "better working conditions"?

A. Well, for shorter hours and better wages.

Q. Do you still belong to the union?

A. Yes.

Q. Do you desire to remain a member of your union?

A. I do.

Q. Do you desire to be represented by the officers of the union in their negotiations and dealings with the Santa Cruz plant?

A. I do.

(Testimony of Connie Martin.)

Mr. Edises: That is all.

(Witness excused.)

Mr. Edises: Connie Martin. [470]

CONNIE MARTIN,

called as a witness for the National Labor Relations Board, being first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Edises) What is your name?

A. Connie Martin.

Q. What is your address, Mr. Martin?

A. 1780 Hayes Street.

Q. Married?

A. Yes.

Q. Any children?

A. Expecting one.

Q. Did you work for Santa Cruz or Stokely?

A. Santa Cruz.

Q. Who is your boss?

A. Stan Torenson.

Q. When did you first go to work there?

A. Over two years and a half ago.

Q. Two years and a half ago?

A. Yes sir.

Q. Have you worked steadily there ever since?

A. Yes sir.

Q. Were you ever told your work was unsatisfactory?

(Testimony of Connie Martin.)

A. No sir.

Q. When did you apply for membership in the union? [471]

A. In the latter part of July.

Q. Who asked you to join?

A. Well, we were all talking about it, between the whole gang.

Q. What were your reasons for joining the union?

A. Better conditions, less work.

Q. When did you get your union button?

A. Monday, August the 5th.

Q. August 5th?

A. August 5th.

Q. Who gave it to you?

A. Bob Anger.

Q. Were you present on Monday around 6 o'clock, when Mr. Huddleson spoke to the men?

A. Yes sir.

Q. Do you remember what he said about the union?

A. A little.

Q. Well, what did he say?

A. Well, he said he understood we had organized a union, and said a union was a good thing; said but it was impossible for him to pay 62½ cents an hour, if that was what we wanted. He said he wouldn't pay that unless we got the other 57 canneries in the state to pay it. He said he would give us two days to think it over.

Q. What did he want you to think over? [472]

(Testimony of Connie Martin.)

A. Think over if we would stay with the union, or if we wanted to stay there working; that if we were going with the union, we were all through and we would lose our jobs if we kept the buttons and stayed with the union.

Q. Do you know Mr. Gomez?

A. I do now.

Q. Did you ever see him around the Santa Cruz plant before Wednesday, August 8th?

A. Yes.

Q. August 7th?

A. Yes sir.

Q. What day did you see him?

A. Saw him Monday.

Q. What time?

A. About around 10 o'clock in the morning.

Q. In the morning?

A. In the morning.

Q. Were you on the day shift?

A. Yes sir.

Q. Where did you see Mr. Gomez?

A. Saw him in the warehouse there.

Q. What was he doing?

A. Walking around looking at the stacks.

Q. Did you ever see him there before Monday at any time?

A. I don't recall. [473]

Q. Did you see him on Tuesday?

A. Yes sir.

Q. Did you see him on Wednesday?

A. Yes sir.

(Testimony of Connie Martin.)

Q. What time on Wednesday?

A. Saw him about a quarter after three, with two Chinks.

Q. And where did you see him?

A. Right in front of the office. I was cutting some labels and I seen him talking there.

Q. Who did you see him talking to?

A. With Gomez.

Q. Well, I am speaking of Mr. Gomez. Who did you see him, Gomez, talking to?

A. To two Chinks.

Q. You saw him talking to two Chinamen?

A. Yes sir.

Q. And was Mr. Torenson around?

A. No sir.

Q. Were they by his office?

A. Yes, right in front of his office.

Q. Did you go to the initiation meeting Wednesday night?

A. Yes sir.

Q. Who told you about the meeting?

A. Bob Anger.

Q. When did he tell you? [474]

A. About 10 o'clock in the morning.

Q. What did he say?

A. He told me we were going to get initiated that night at 8 o'clock. He said he had spoken to Stan Torenson and Stan Torenson said it was O. K.

(Testimony of Connie Martin.)

Q. Did he say at what time you were supposed to be able to leave that afternoon?

A. He said he told him if we could leave at 4:30 in the afternoon, and he told me that Stan Torenson told him it was all right.

Q. Did you show up the next morning, Thursday morning, for work?

A. Yes sir.

Q. What did you find when you got there?

A. I found the doors locked and with two watchmen at the door.

Q. Did you speak to anybody who was working for the company at that time?

A. No sir.

Q. Were you on the picket line?

A. Yes sir.

Q. Did you do picket duty?

A. Yes.

Q. If the Board orders your reinstatement will you take your job back? [475]

A. Yes sir.

Mr. Edises: That is all.

Cross Examination

Q. (By Mr. St. Sure) Were you on the picket line during the day, during the night, or at both times?

A. Well, we had about three or four days nights, and three or four days days.

Q. What did you do when you were there as a picket?

A. Peaceful picketing.

(Testimony of Connie Martin.)

Q. Yes, but I mean who did—what did you do to do peaceful picketing?

A. We were supposed to picket.

Q. What?

A. The way you are supposed to do picketing.

Q. What did you do while you were there? That is all I want to know.

A. Well, we would tell the trucks not to go in there, that there was a picket line there, and that we were locked out.

Q. Did you say anything else to the truck drivers that went in there?

A. That is all we was to tell them.

Q. Did any of them go on through?

A. Some went through, some went out.

Q. Did you say anything else to those that went through? [476]

A. No sir.

Q. Did you tell them whether they should come back again or not?

A. If they came back, we would tell them again if they were the same ones.

Q. When did you first meet Mr. Woods.

A. August 7th.

Q. That was at the initiation meeting?

A. Yes sir.

Q. When did you authorize Mr. Woods to represent you in the negotiations with the Santa Cruz Fruit Packing Company?

A. I don't understand that.

(Testimony of Connie Martin.)

Q. When did you tell Mr. Woods that he could represent you in dealing with the management there?

A. I didn't tell him anything.

Q. Pardon?

A. I didn't tell him anything.

Q. Who did you tell? Did you tell anybody that they could represent you?

A. Well, Bob Anger was the one that was taking that up.

Q. What did Bob Anger tell you about it? Did he tell you they were going to have somebody represent you?

A. Said we got represented when we got initiated.

Q. Before the time you got initiated did anybody, or was there anybody representing you, as far as you are concerned, [477] that is, before you got initiated?

A. Bob was.

Q. All right. What was he representing you for? What was he going to do?

A. I don't get that.

Mr. Edises: I submit, if the Examiner please, that it is pretty clear from his answers that the man has a pretty general idea of what he joined the union for. As far as specific authorization is concerned, I submit that from the facts of this case, it ought to be clear that each of these men were not required to go specifically to Mr. Anger, or any one else, and give them A, B, C and D as to what they were to do for them.

(Testimony of Connie Martin.)

Mr. St. Sure: I haven't asked for A, B, C and D. I asked whether he knew anything about what was going on. I am not asking for A, B, C, D or 1, 2, 3, 4. I would like to know what this man thought he was having by way of representation, other than asking what he understood that to be. I think I am entitled to it.

Mr. Edises: I think you are, but I think if you will ask this man what he understood he was doing by joining the union, you will get his reply without any evasion of any kind.

Mr. St. Sure: I haven't suggested he is evading. [478] I just haven't gotten an answer, that is all.

Trial Examiner Traynor: You expected the union to send a representative to the Santa Cruz plant to talk over working conditions and wages?

The Witness: Yes, we expected Mr. Woods to go there and talk with them. We didn't know anything about it.

Q. (By Mr. St. Sure) Did you expect that before you were initiated?

A. Well, I heard they were going to talk with the boss, Mr. Huddleson.

Q. Pardon me?

A. I heard they were going to talk to Mr. Huddleson first, before we got locked out as we did.

Q. Did you know of any agreement, any regular written agreement, that was to be submitted to the management there, to Mr. Huddleson?

A. No, I don't.

Q. You have never seen that agreement?

A. No sir.

(Testimony of Connie Martin.)

Q. Have you ever heard it discussed, I mean as to what it contains, what it said?

A. No sir.

Mr. St. Sure: I think that is all. [479]

Redirect Examination

Q. (By Mr. Edises) Are you satisfied with the way the union has handled the situation in connection with the lockout and so forth?

Mr. St. Sure: I take it there is no charge against the union. I thought the Board filed charges against the Santa Cruz Packing Company.

Mr. Edises. It seems to me that the questions you have put to the witness, Mr. St. Sure, have a definite bearing on just how the union represented these men, whether it was acting in accordance with the will of the membership, and so forth.

Trial Examiner Traynor: I think that is a fair question.

Q. (By Mr. Edises) Have you any complaint to make with the way the union dealt with you, or dealt with the Santa Cruz Packing Company?

A. No, I am satisfied with it.

Mr. Edises: That is all.

Recross Examination

Q. (By Mr. St. Sure) To this day you don't know what demands were made by the union in the contract they sent to the Santa Cruz Fruit Packing Company, do you?

A. No, I don't know.

Mr. St. Sure: That is all.

Mr. Edises: Just a minute. [480]

(Testimony of Connie Martin.)

Further Redirect Examination

Q. (By Mr. Edises) Did you know that the union was going to ask for higher wages, shorter hours, better working conditions?

A. Yes, sir.

Mr. Edises: All right.

Trial Examiner Traynor: We'll rest for five minutes.

(At this point a recess was taken after which proceedings were resumed as follows:)

Mr. Edises: Mr. Pio.

MR. ALFRED PIO

called as a witness for the National Labor Relations Board, being first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Edises) Your name is Alfred Pio?

A. Yes, sir.

Q. P-i-o?

A. Yes, sir.

Q. And your address?

A. 665-6th street, Oakland.

Q. Are you married?

A. Yes.

Q. Any children?

A. One.

Q. How old?

A. Going on six.

A. Going on six. [481]

(Testimony of Alfred Pio.)

Q. You work for the Santa Cruz?

A. Yes.

Q. When did you go to work for them?

A. April, 1935, April 1st.

Q. Did you work on the day or night shift?

A. Night shift.

Q. When did you first apply for membership in the union?

A. The latter part of July.

Q. Whom did you apply through?

A. Bob Anger, I guess.

Q. What was your reason for applying?

A. Better conditions.

Q. What do you mean by that?

A. Just better conditions.

Q. Do you mean you wanted higher wages? Did you want shorter hours?

A. Shorter hours and better conditions.

Q. And what did your joining the union have to do with your desire for better working conditions?

A. I don't know.

Q. Well, can't you answer the question?

A. Yes, more pay.

Q. Did you expect the union to negotiate with the company for you to get better conditions?

A. Yes, sir. [482]

Q. Do you know who Mr. Woods is?

A. Now, I do.

Q. Had you ever belonged to a union before?

A. No, sir.

(Testimony of Alfred Pio.)

Q. Do you know anything about unions?

A. No, sir.

Q. Other than that they were supposed to get better conditions for you?

A. Yes, sir.

Q. When did you get your button?

A. On Tuesday.

Q. Were you present on Monday when Mr. Huddleson spoke to the men?

A. Just in the tail end of his talk.

Q. Tail end of his talk. What did you hear him say?

A. All I heard him say, was when he was going out he told the boys he wouldn't recognize the union, and for us to take a couple of days to think it over.

Q. Did you go to the initiation meeting Wednesday night?

A. Yes, sir.

Q. Who told you about the meeting?

A. Bob Anger.

Q. What did he say when he told you about it?

A. We knocked off in the morning, Wednesday morning. Torenson was there. He told us, it was O. K.; he would make [483] arrangements for us to go to the meeting.

Q. Just a moment! I am afraid I don't quite follow you. You say Bob Anger told you about the meeting on Wednesday morning, is that right?

A. Yes, Sir.

(Testimony of Alfred Pio.)

Q. And about what time was that?

A. Around nine—nine or after nine; some time around that.

Q. Was that just when you were knocking off work?

A. Yes, sir.

Q. Did he say anything about having gotten permission for you to get off?

A. Yes.

Q. What did he say in connection with that?

A. I asked him if we could get off. He said Mr. Torenson was right there by the machines. He asked two or three of us what we were going to do about it.

I said it was up to him to get someone in our place. Torenson said it was O. K., he would fix it up for us.

Q. Who was there at the meeting?

A. Bob Anger.

Q. Who else?

A. Larry Doyle.

Q. Who else?

A. Sonn—Sonnberg, or something like that.

[484]

Q. Sonnbeck?

A. Yes.

Q. Will you repeat as closely as you can remember what Mr. Torenson said at that time?

A. Well, he said it would be O. K. He would try to arrange to get somebody to take my place on the labeling machine.

(Testimony of Alfred Pio.)

Q. Yes, go on.

A. So, he said he would go to the other warehouse, maybe he could arrange it.

I asked him about that at the office when he checked us out. He said, "O. K., you can go; but be back right after the meeting."

Q. Did you go to the meeting?

A. Yes.

Q. Did you come back after the meeting?

A. Yes.

Q. Who was with you at that time?

A. I came back in the car alone. I was sitting back in the car waiting for Doyle and Sonnbeck to come.

Q. What time was that?

A. Ten-thirty, I guess.

Q. What happened after you arrived at the Santa Cruz plant?

A. After the other boys came we went down to the warehouse. There was a couple of guards there. One had some kind of a gun with him. We asked him if we could see Torenson. We [485] didn't know what it was all about.

He said, "Well, we are goiing to have trouble around there." He said "You had better go home."

We said we worked there.

He said it was O. K.; we were on the pork and bean crew.

They let us go up to the door. Someone there opened the door. We saw Torenson coming in.

(Testimony of Alfred Pio.)

We asked Torenson, "Do we go to work?"

Torenson said "No, you are out."

We told him that was all we wanted to know. I went on home then.

Q. Didn't you think it was strange for him to say that, after he told you to come back?

A. Sure.

Q. Didn't you say anything to him after that?

A. Couldn't say anything. We thought we were canned. He just locked the door.

The next morning I came back to see what it was all about. I saw all the fellows out there. I knew the whole works were canned, the ones who had the union buttons.

Q. What was your job at the plant?

A. Running labeling machines at night.

Q. Ever do anything else?

A. Everything in general.

Q. Were you shifted along from one job to another? [486]

A. Yes, sir.

Q. Including loading the cars?

A. Yes, sir.

Q. Were you ever shifted over to the Stokely warehouse?

A. A few times over there; yes.

Q. And who ordered you to go over there on those occasions?

A. Torenson, or Ernie Reich.

Q. What was the reason for your being transferred at that time?

(Testimony of Alfred Pio.)

A. Extra work over there, there was extra work over there to do; not enough men, I guess.

Q. Whose name appeared on your pay check?

A. Santa Cruz. I don't know who signed it.

Q. Santa Cruz Packing Company's name was on the checks?

A. Yes.

Q. Did that also occur while you were working at Stokely?

A. Same thing, two separate checks with the same names on them.

Q. If the Board orders your reinstatement, will you take your job back?

A. Yes, sir.

Mr. Edises: That is all.

Cross Examination

Q. (By Mr. St. Sure) Before you applied for membership in the union, had you ever discussed with your employer, or with [487] anyone connected with the Santa Cruz plant, the matter of your desire for more pay?

A. No.

Q. When did you first meet Mr. Woods?

A. When we were initiated that night.

Q. Have you ever seen this agreement that was sent to the Santa Cruz management, before the initiation meeting?

A. No.

Q. Did you ever hear it read, or discussed?

A. Yes, at the initiation meeting.

(Testimony of Alfred Pio.)

Q. The agreement was read at that time, was it?

A. Yes.

Q. Who read it?

A. I don't remember.

Q. Do you recall anything about the agreement that was read to you?

A. No.

Q. Do you recall how many hours a week were to be a week's work?

A. I don't recall much about what was in it.

Q. Pardon me?

A. I don't recall what was in it very much now.

Q. Did you do picket duty?

A. Yes.

Q. And who was in charge of the picket duty? I mean, who told you, or who suggested to you that you go on the picket line? Who had charge of that? [488]

A. The union, I guess; the union.

Q. Pardon me?

A. The union.

Q. Well, who from the union did you talk to?

A. Bob Anger was representing us.

Q. What did he tell you what you were to do while you were there as a picket?

A. Just walk back and forwards.

Q. Is that all?

A. That is all I got.

Q. Did you stop any trucks?

A. Not me.

(Testimony of Alfred Pio.)

Q. Pardon me?

A. No.

Q. How many days were you there on picket duty?

A. About all the time, I guess.

Q. You didn't stop any trucks?

A. No.

Q. Anybody else stop any trucks while you were there?

A. I didn't see any.

Q. You didn't see any trucks stopped either day or night?

A. No.

Q. Wasn't that part of your purpose in being there as a picket, to let the truck drivers know that they shouldn't [489] go in there?

A. We were out there — the teamsters knew there was pickets out there. They wouldn't go past the pickets. That is all the orders we had.

Q. Well, the trucks came in from the country. Did you try and let them know who you were, that you were pickets?

A. No.

Q. So far as you know, there weren't any trucks stopped going in and out of the plant at all?

A. I don't remember seeing anyone stop them.

Q. Were you there every day and night, and some time during each day?

A. Yes.

Q. For how long a period?

A. Sometimes ten and twelve hours.

(Testimony of Alfred Pio.)

Q. I mean, over a period, were you there for a matter of two or three weeks?

A. You mean on day or night?

Q. I mean, how long were you there on picket duty, part of each day? You say you were there two or three weeks. Were you there from the time the trouble first started and until the picket line was removed?

A. Yes.

Q. You were there day or night during that entire period? [490]

A. Yes.

Q. Were all the pickets on duty about one place, that is, there at the intersection of 57th Avenue and East 14th Street?

A. Down by the Chevrolet.

Q. Down by the Chevrolet. When the picket line was first established you were on 57th Avenue, weren't you?

A. Yes.

Q. Did you stop any trucks at that time?

A. Not personally.

Q. Did you see any stopped?

A. No.

Q. You say you did not?

A. No.

Q. Well, were you there when the picket line was moved back from 57th Street, 57th Avenue, to a place on East 14th Street?

A. Yes, on East 14th.

(Testimony of Alfred Pio.)

Q. Do you know why it was moved back? Did anybody tell you why?

A. All I got out was the cannery locked 57th up.

Q. You say the cannery locked it up?

A. Yes.

Q. Who ordered you to move back?

A. The police.

Q. Did the police tell you why they wanted you to move back?

A. No. [491]

Q. You didn't ask them?

A. No.

Q. Anybody else ask them while you were there?

A. I don't know.

Q. That is, you didn't hear anybody ask?

A. No.

Q. You say you didn't hear all the things Mr. Huddleson had to say on this Monday evening gathering. You got there late, or after it was partly over?

A. It was about all over when I got there.

Mr. St. Sure: I think that is all.

Redirect Examination

Q. (By Mr. Edises) What do you understand Mr. St. Sure to mean, by the word "stop" when he speaks of "stopping trucks"?

A. Getting on them and stopping them.

Q. You mean, forcing the drivers to stop whether they liked it or not?

A. Yes.

1994

(Testimony of Alfred Pio.)

Q. You didn't see anything like that?

A. No.

Q. You saw the pickets talking to the drivers and asking them not to go through the picket line?

A. I didn't hear them talking to them, but I was close enough.

Q. By talking to them and asking them not to go through— [492]

Mr. St. Sure (Interrupting): He said he wasn't close enough to hear. How does he know what he asked them.

Q. (By Mr. Edises) Did you ever see any of the pickets talking to any of the truck drivers?

A. No.

Q. You don't remember—

Mr. St. Sure (Interrupting): He didn't say he didn't remember. He said "No."

Mr. Edises: I beg your pardon.

Q. (By Mr. Edises) You saw certain of the pickets talking to truck drivers though, didn't you?

A. Yes, I was kind of far away most of the time.

Q. But did you consider that stopping trucks?

A. No.

Q. What was your answer?

A. No.

Recross Examination

Q. (By Mr. St. Sure) Did you see any trucks stopped and turn back and go away from that place without going into the plant?

(Testimony of John Reckling.)

A. No.

Q. You did not?

A. No.

Mr. St. Sure: That is all. [493]

Mr. Edises: That is all.

Mr. Reckling.

JOHN RECKLING,

called as a witness for the National Labor Relations Board, being first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Edises) Your name is John Reckling?

A. Yes.

Q. Where do you live?

Q. 1836-70th Avenue.

Q. Oakland?

A. Oakland.

Q. Are you one of the complainants in this action?

A. I am.

Q. If the Board orders your reinstatement, will you accept your job back?

A. I will.

Q. If it is offered to you?

A. I will.

Q. Did you work for Santa Cruz or Stokely?

A. I worked for Santa Cruz.

(Testimony of John Reckling.)

Q. Were you ever shifted over to the Stokely Warehouse?

A. Yes, several times.

Q. Who ordered you over there?

A. Sam Torenson and Ernie Reich. [494]

Q. When did you first go to work for Santa Cruz?

A. About two and a half years ago.

Q. What kind of work did you do?

A. Well, I did all the work in the warehouse, shifted around.

Q. Did you do loading?

A. Yes, I did.

Q. Did that constitute a good part of your work?

A. Well, sometimes it did; sometimes all day, other times just an hour or so.

Q. That was loading onto the trucks and box cars, is that correct?

A. Yes, sir.

Q. When did you first apply for membership in the union?

A. The latter part of July.

Q. Whom did you apply through?

A. Well, we all signed up at the warehouse there; Bob took the slip into the local union.

Q. What was your reason for joining the union?

A. To get better wages, shorter hours.

Q. What did you expect the union to do for you in that connection?

A. I expected them to represent me.

Q. When did you get your union button?

A. On Monday, October 6th.

(Testimony of John Reckling.)

Q. Monday is the 5th, I believe. [495]

A. Fifth; somewhere in there.

Q. Who gave it to you?

A. Bob Anger.

Q. Did you hear Mr. Huddleson speak to the men on Monday?

A. Yes, I did.

Q. And were you wearing your button at that time?

A. I was.

Q. As far as you can remember, what did Mr. Huddleson say to you?

A. Well, he said we never let him know that we were organizing, joining the union; so he went ahead the same way and got himself a contractor. He said he could have a contractor step in on a moment's notice.

Q. Do you remember anything else particularly?

A. Yes. There was another remark he made that I remember.

He said, "You are not fucking me; you are fucking yourself." He paused a few moments and he repeated it. He repeated the same statement.

Q. What did you understand him to mean by that?

A. Well, the way I got it, why, if we kept up our union activities we would be out—we would be without a job.

Q. Do you know Gomez?

A. Well, I had him pointed out to me.

Q. When?

(Testimony of John Reckling.)

A. On Monday, the first time he was pointed out to me. [496]

Q. Who pointed him out?

A. Some of the follows who had already seen him told me it was Gomez.

Q. What did you see him doing?

A. I saw him both at Santa Cruz and Stokely warehouses. He was walking around looking at stacks. I never did speak to him.

Q. Had you ever seen him around the warehouse before?

A. Not before Monday.

Q. Did you see him on Tuesday?

A. Doing the same things, yes.

Q. On Wednesday?

A. Yes, doing the same things.

Q. What times did you see him on Wednesday?

A. I saw him several times in the afternoon.

Q. When was the first time you saw him during the afternoon?

A. Well, I imagine it was around two o'clock; somewhere in there.

Q. Anybody with him?

A. No, he was by himself.

Q. Did you see him with anybody else during the afternoon?

A. No, I never.

Q. Did you go to the initiation meeting Wednesday night?

A. Yes, I did. [497]

Q. Who told you about the meeting?

A. Bob Anger.

(Testimony of John Reckling.)

Q. When?

A. About nine or ten in the morning, Wednesday morning.

Q. What did he tell you at that time?

A. He told me we were having a meeting that evening. I asked him if he had gotten permission from Torenson to go.

He said yes, he was talking to him this afternoon. He said it was all right to go.

Q. What time did you knock off that day?

A. Four-thirty.

Q. How did you happen to knock off at four-thirty?

A. That was the time Bob said we had permission for us to go.

Q. Did you do picket duty?

A. Yes, I did.

Q. Did you ever receive suggestions or instructions from the union, or any official of the union, to the effect that you were to use force or violence in stopping trucks, or any other activities on the picket line?

A. No, I never did.

Q. Did you ever use any force or violence?

A. No, I never did.

Q. Or any kind of direct action?

A. No. [498]

Q. Do you know what I mean by "direct action?"

A. By that I think you mean violence, isn't that it?

(Testimony of John Reckling.)

Q. That is essentially it. Did you ever see anyone else forcibly stop trucks?

A. No, I never did.

Q. Did you ever talk to any truck drivers?

A. Yes, I did.

Q. What did you say to them?

A. I just told them it was a picket line; usually they never went through.

Q. Did you threaten him?

A. No, I never.

Mr. Edises: That is all.

Cross-Examination.

Q. (By Mr. St. Sure) Did you hear the contract read at the initiation meeting Wednesday night?

A. Yes, I did.

Q. Do you recall any of the terms that were in the contract?

A. Yes, it was 62½ cents an hour, and eight hours a day, six days a week.

Q. Were those the terms you were most interested in?

A. Yes, it was.

Q. Are you sure 48-hour week?

A. 48-hour week, yes. [499]

Q. Who read the contract at that meeting?

A. I believe Bob read it; I am not sure about it, though.

Q. Was that the first you had heard of it?

A. No. We heard the general terms discussed. That is, we discussed them among ourselves.

(Testimony of John Reckling.)

Q. Whom did you discuss it with before the initiation meeting?

A. The rest of the fellows.

Q. When did you learn, or did you learn, that it had been submitted to the management?

A. You mean, that the contract was sent to the management?

Q. Yes.

A. Well, I heard it Monday; I believe it was Monday that it was sent.

Q. You are sure of that, on Monday?

A. I believe it was.

Q. It wasn't mailed until Tuesday. I am just wondering if your figures are mixed.

A. It might have been Tuesday, but I heard it had been sent.

Q. Up to that time you hadn't heard the contract itself read?

A. Not until Wednesday evening.

Q. Had you met Mr. Woods before that time?

A. I had seen him.

Q. You hadn't talked to him before that time?

[500]

A. No, I wasn't introduced to him, but I had seen him around.

Q. You did picket duty, you say. Nights or days, or did you vary the time, sometimes nights and sometimes day?

A. Both.

Q. All during the time the picket line was there?

A. Yes, I was.

(Testimony of John Reckling.)

Q. Anybody in particular have charge of the picket line?

A. Well we usually elected a captain. He was just there to see that the men didn't do anything wrong.

Q. Now, about this matter of stopping trucks; what did you do, just flag them down?

A. Sometimes; sometimes they stopped of their own accord.

Q. Then, what conversation did you have with any of the truck drivers?

A. All I usually said, it was a picket line; the rest was up to them. The officers wouldn't let us talk to them much, so that is all we usually said. They could either go in or turn around, whatever they liked.

Q. Did you take the numbers of any of the trucks that went in?

A. No, I never.

Q. Did you see any other men taking the numbers of any trucks?

A. No, I didn't. [501]

Q. About how many men were there on the picket line? I mean, the average.

A. Oh, about ten, twelve, fifteen.

Q. There was only one street leading into the cannery; that is a blind street leading down into the cannery, is that right?

A. Yes, 57th Avenue.

Q. The only way you could go to, or come from, the cannery, was on 57th Avenue?

(Testimony of John Reckling.)

A. Yes.

Q. Before the initiation meeting night, were you working night shift or day shift?

A. I was working day.

Q. On the day that the meeting, the initiation meeting, was held, what time did you leave work?

A. Four-thirty.

Mr. St. Sure: I think that is all.

Mr. Edises: That is all.

(Witness excused.)

Mr. Edises: May I recall Mr. Reckling for one question?

Trial Examiner Traynor: Yes. Mr. Reckling.

JOHN RECKLING,

recalled for further examination as a witness for the National Labor Relations Board, having been previously sworn, testified as follows: [502]

Further Direct Examination.

Q. (By Mr. Edises) I show you the Board's Exhibit No. 3, and ask you to read Section 1, Subdivision C, in regard to hours.

A. Forty hours.

Q. Does that refresh your recollection in regard to the number of hours that were to be asked for in the proposed agreement?

A. Well, I may have misunderstood. I thought it was 48. I may have got mixed up with the six shifts. I thought it was eight hours a day, six days a week. That is what I thought it was.

Mr. Edises: That is all.

Trial Examiner Traynor: Any further questions?

(Testimony of Jack Baker.)

Mr. St. Sure: That is all.

Mr. Edises: Mr. Jack Baker.

(Witness excused)

JACK BAKER,

called as a witness for the National Labor Relations Board, being first duly sworn, testified as follows:

Direct Examination.

Q. (By Mr. Edises) Where do you live, Mr. Baker?

A. 1538 C Street, Hayward.

Q. Are you married?

A. Yes, sir.

Q. Any children? [503]

A. No, sir.

Q. When did you first go to work for Santa Cruz?

A. Sixteen or eighteen months ago.

Q. You worked for Santa Cruz, did you not?

A. Yes, sir.

Mr. Edises: Mr. Reporter, read his answer in regard to when he worked.

(The answer referred to was read aloud by the reporter as above recorded.)

Q. (By Mr. Edises) What kind of work did you do there?

A. Various warehouse work, warehouse work of all sorts.

(Testimony of Jack Baker.)

Q. Do any loading?

A. Yes, sir.

Q. Into the cars that were on the track?

A. Mostly loading on trucks.

Q. Mostly loading on trucks. Were you shifted around from one job to another in the warehouse?

A. Yes, sir.

Q. Did you ever shift over to the Stokely Warehouse?

A. Once or twice, yes.

Q. When did you first apply for membership in the union?

A. Some time in July.

Q. Through Mr. Anger?

A. Yes, sir.

Q. What was your reason for applying for membership? [504]

A. Better conditions; shorter hours.

Q. What did you think the union could do for you in that respect?

A. Well, by belonging to the union, having them to represent us, why we would get along a lot better, stick together better.

Q. When did you first get your union button?

A. Tuesday, I think.

Q. What?

A. Tuesday, I think it was.

Q. Were you present on Monday when Mr. Huddleson spoke to the men?

A. I was not.

Q. Did you go to the initiation meeting Wednes-

(Testimony of Jack Baker.)

day night?

A. I did.

Q. Did you know if the agreement was read at that time?

A. Yes, sir.

Q. Do you recall who read it?

A. No, I don't recall the name of the fellow.

Q. What time did you knock off on Wednesday?

A. Oh, I don't know; I knocked off early that day; some time around two or three o'clock.

Q. Two or three o'clock?

A. Yes, I didn't knock off with the rest of the fellows.

Q. Was that your usual quitting time? [505]

A. Not necessarily; there were lots of times I would knock off at noon; some times later some times earlier.

Q. When you left at two or three o'clock on Wednesday, were you through for the entire day?

A. I was, yes.

Q. How was it to be determined when you were to quit?

A. Well, as a rule, we were assigned to a certain job, especially shipping. At the time I happened to be working for a can stacker; we finished up the job. If you wanted to go to work on another job, it was all right. If it wasn't too busy, you could go on home, when you finished a job at a reasonable hour.

Q. What would you do before you went home?

A. Well, I checked out.

Q. What did this process of checking out consist of?

(Testimony of Jack Baker.)

A. There was a time card with the hours on it. This was punched, the hours, you checked out.

Q. Would you have to look up Mr. Torenson before you checked out?

A. Not necessarily; if you found one of the assistant foremen, you could check out through them.

Q. Ever check off through Reich?

A. Yes, sir.

Q. Remember who you checked out through that day, Wednesday? [506]

A. I was working for a can stacker that day.

Q. You worked for the warehouse direct that day?

A. No, I didn't.

Q. I see. Who told you you could go home?

A. The can stacker.

Q. Did you speak to Mr. Anger at all on Wednesday?

A. I think I did.

Q. How did you learn about the meeting that was to be held that night?

A. Mr. Anger told me.

Q. Do you remember when he told you?

A. Just told me there would be the initiation meeting that night between 7:30 and 8 o'clock.

Q. Did he say anything else that you remember?

A. No, I didn't ask him anything else. I think —I knew I was going to get through early that day.

Q. Do you know Mr. Gomez?

A. No, I don't.

(Testimony of Jack Baker.)

Q. Did you show up for work on Thursday morning?

A. I did.

Q. Did you try to get in?

A. I did.

Q. What happened?

A. Well, there was the watchman there. He said all men with buttons, union buttons, could not go in. He had orders [507] to keep them out. The cars that drove up that morning, he told them to move on and park some other places.

Q. Who told them?

A. The watchman said that there may be some action around there before long.

Q. There may be some "accidents"?

A. Action.

Q. The night watchman said that?

A. Yes.

Q. Did you ever belong to a union before?

A. No, sir.

Q. Did you work on the picket lines?

A. I did.

Q. On the day time or night time?

A. Both.

Q. Did you ever stop any trucks?

A. I have.

Q. What do you mean by stopping trucks?

A. Just stop them; tell them there was labor trouble there, that we had a picket line.

Q. How did you stop them? Throw rocks in front of them?

(Testimony of Jack Baker.)

A. Just go out and wave your hand at them.

Q. Did you ever threaten any of these truck drivers?

A. No, sir.

Q. Ever receive any orders from the union to use force [508] or violence?

A. I did not.

Q. Do you know of any incident when force or violence was used against truck drivers?

A. I do not.

Q. Or anyone else at the Santa Cruz plant?

A. I do not.

Mr. Edises: That is all.

Cross-Examination.

Q. (By Mr. St. Sure) Before the agreement was sent to the management, did you discuss with anyone what that agreement was going to have in it?

A. I think that was all left up to Mr. Anger; that he would represent us men as a body.

Q. Did you have any idea of what he was going to ask for?

A. I did.

Q. What did you understand he was going to ask for?

A. My understanding was it would be an eight-hour day, raise in wages, and time and a half for overtime over eight hours.

Q. Had you discussed with your foreman or the management, or anyone else before that, that you would like the management to discuss those matters with you?

(Testimony of Jack Baker.)

A. No, sir.

Q. Before the time that this contract was sent to Mr. Huddleson? [509]

A. No, sir.

Mr. St. Sure: Mr. Reporter, was there an answer?

(The answer referred to was read aloud by the reporter as above recorded.)

Q. (By Mr. St. Sure) Did you meet Mr. Woods before the night of the initiation meeting?

A. No, I did not.

Q. Pardon me, I didn't hear the answer.

A. No, I did not.

Q. Did you see any of the men at the meeting that night, that Wednesday night, who said that they had been at the plant earlier in the day, around 5:30 or 6 o'clock, that Stan Torenson told them that the boss had said if they went to the meeting their jobs wouldn't be there for them?

A. I did not.

Q. Didn't hear that discussed at all?

A. I did not.

Q. It was a complete surprise to you when you went to the plant the next morning and the watchman was there and said not to go in?

A. Yes, sir.

Q. Was there any discussion at all, the night of the initiation meeting, of the management's attitude concerning your all joining the union?

A. No. [510]

(Testimony of Jack Baker.)

Q. That wasn't mentioned at all?

A. We all had orders to go back to work, the same as usual.

Q. At the time the contract was read, was any discussion had at all as to what the attitude of the management might be the following day, or the fact that your going to the initiation meeting would make any difference at all.

A. It seemed to be understood that it was all right to go to the meeting. As far as the contract, we didn't know how that would come out. We were hoping for the best.

Q. Was there discussion as to how the management felt about it, or what would be done?

A. Not that I recall.

Q. Did anything take place at the meeting except the formal initiation itself, and the reading of the contract? Any discussion at all about conditions there, about negotiations, or anything of that kind?

A. There was just a discussion that there would be a union representative to represent us, and present the contract to Mr. Huddleson, and take care of the business for us. We would be notified at any time what was going on, and if there was any objections. The contract was read, and all the men asked if it was agreeable with them; and if there was any discussion. I don't think a man spoke up. I don't think there was any discussion or anything else.

Q. Did you see George Costa there at the meeting? [511]

A. I think I did, I wouldn't say for sure, but I think I saw him there.

(Testimony of Jack Baker.)

Q. Did you see Cliff Algrava there?

A. I don't recall seeing him.

Q. In any event, you don't recall either of them saying anything about having talked to Torenson before going to the meeting?

A. I do not.

Mr. St. Sure: I think that is all.

Mr. Edises: That is all.

(Witness excused.)

Mr. Edises: Mr. Gerald Olivera.

GERALD OLIVERA,

called as a witness for the National Labor Relations Board, being first duly sworn, testified as follows:

Direct Examination.

Q. (By Mr. Edises) What is your full name?

A. Gerald Olivera.

Q. Where do you live?

A. San Leandro, 1347—44th Avenue.

Q. Are you married?

A. Yes.

Q. Any children?

A. No.

Q. When did you first go to work for the Santa Cruz Fruit [512] Packing Company?

A. I worked for Stokely.

Q. Oh, you worked for Stokely?

A. Yes.

Q. When did you first go to work for them?

(Testimony of Gerald Olivera.)

A. About two years ago.

Q. Who hired you?

A. Manuel Frates.

Q. Who is he?

A. He is our assistant foreman.

Q. What was the nature of your work at the Stokely warehouse?

A. Loading cars, loading cars and loading trucks, stacking cans, tearing down stacks.

Q. Were you ever shifted over to Santa Cruz?

A. Occasionally.

Q. Who ordered you over there when that happened?

A. Manuel Frates.

Q. Whose checks did you receive, Santa Cruz or Stokely, or what?

A. Santa Cruz checks.

Q. Santa Cruz Fruit Packing Company's name appeared on top of the check?

A. Yes.

Q. Do you know by whom it was signed? [513]

A. Gaddis.

Q. Anybody else?

A. I don't remember.

Q. When did you first apply for membership in the union?

A. The latter part of July.

Q. Through Mr. Anger?

A. Through Bob Anger, yes.

Q. Had you ever belonged to a union before?

A. No.

(Testimony of Gerald Olivera.)

Q. Do you know anything about union activities?

A. Yes.

Q. What was your answer?

A. Yes.

Q. Where did you learn that? Did you have anything more than a general knowledge of the union?

A. I thought for more wages and better conditions, shorter hours.

Q. How did you think the union was going to get that for you?

A. By sending some representative to Mr. Huddleson, and the agreement.

Q. Were you present on Monday when Mr. Huddleson spoke to the men?

A. No, I wasn't.

Q. Did you go to the initiation meeting Wednesday night? [514]

A. Yes.

Q. What time did you get off on Wednesday?

A. Four-thirty.

Q. How did you happen to get off at that time?

A. Well, we were through with our work that day.

Q. Is that true of all the Stokely men, were they all through with their work at 4:30 that day?

A. Yes.

Q. Did you speak to Mr. Anger at all on that day?

A. He was talking to me at noon that day.

Q. What did he tell you at that time?

(Testimony of Gerald Olivera.)

A. He told us there was going to be an initiation meeting that night at 7:30.

Q. Did he say anything else?

A. That is all.

Q. Was it necessary for the Stokely men to get special permission to knock off at 4:30 on Wednesday?

A. No.

Q. Did you say Manuel Frates told you you could leave?

A. Yes.

Q. Was he the one who usually gave you permission to knock off, and told you when to quit?

A. Yes.

Q. Did you know Mr. Gomez?

A. No, I don't, didn't then. [515]

Q. Do you know him now?

A. Yes.

Q. Do you remember seeing him around either of the warehouses Monday, August 5?

A. On Monday, I did.

Q. Where did you see him?

A. I saw him in one of the warehouses. I don't know which one it was.

Q. Speak to him?

A. No.

Q. What did you see him doing?

A. He was walking around, gazing at the fellows.

Q. Had you ever seen him before?

A. No.

(Testimony of Gerald Olivera.)

Q. Did you show up for work on Thursday morning?

A. Yes.

Q. Had you ever heard any discussion at any time prior to Thursday morning, of the men not returning to work, or going on strike, or anything along those lines?

A. No, I didn't.

Q. Did you do picket duty?

A. Yes.

Q. Use any force or violence against any truck driver, or any employee of Santa Cruz Fruit Packing Company?

A. No. [516]

Q. Or anybody else?

A. No.

Q. Did the union ever authorize any violence or force?

A. No.

Q. What were you supposed to do on the picket lines?

A. Well, I was supposed to walk up and down the street in pairs, stop a truck if we could.

Q. What did you understand that you were supposed to do in connection with stopping trucks?

A. Tell them that there was a picket line, that we had lost our jobs.

Q. Were you supposed to order them not to go in, and prevent them from going in whether they wanted to or not?

A. No, I wasn't.

(Testimony of Gerald Olivera.)

Q. Would you accept your job back if the Labor Relations Board ordered your reinstatement?

A. I will.

Mr. Edises: No further questions.

Cross-Examination.

Q. (By Mr. St. Sure) Did you see Reich at the meeting on Wednesday night?

A. I don't remember.

Q. Did you hear any discussion at all as to what the attitude of the management would be concerning the demands that had been made or the contract that had been sent, or [517] about joining the union?

A. Yes.

Q. You talked over that that night?

A. The agreement was read.

Q. Was there any discussion as to what the management might think about it, or what they might do about it?

A. I don't remember.

Q. Did Ernie Reich, or anyone else there, say, early that evening, that he had talked to Torenson, and Torenson said no one was to go to work, that none of the night shift was to go to work if they went to the meeting?

A. I don't get you.

Q. I say, did anybody there at the meeting say that they had been at the plant earlier that evening, before the meeting, that Torenson had said that the bosses' orders were that no one was to come back to work if they went to the meeting?

A. I don't remember.

(Testimony of Gerald Olivera.)

Q. You don't remember?

A. No.

Q. Do you remember any discussion at all, or any talk at all about anything of that kind?

A. No.

Q. When was the contract read, before the initiation or afterwards? [518]

A. I don't remember.

Mr. St. Sure: That is all.

Mr. Edises: That is all.

(Witness excused.)

Trial Examiner Traynor: We will adjourn until 10 o'clock tomorrow morning.

(Thereupon, at 4:00 o'clock p.m., the hearing in the above-entitled cause was adjourned until 10:00 o'clock a.m., Friday, January 3, 1936.) [519]

[Title of Court and Cause.]

Extra Sessions Courtroom, Alameda County Court House, Oakland, California, Friday, January 3, 1936.

Met, pursuant to adjournment, at 10:45 o'clock a. m.

PROCEEDINGS.

Trial Examiner Traynor: Are you ready to proceed?

Mr. Edises: Yes. Call Mr. Algrava.

CLIFFORD ALGRAVA,

called as a witness for the National Labor Relations Board, being first duly sworn, testified as follows: [520]

Direct Examination

Q. (By Mr. Edises) Your name is Clifford Agrava?

A. Yes sir.

Q. Where do you live?

A. 1951 East 24th Street.

Q. Are you married?

A. No.

Q. Did you work for Santa Cruz or Stokely?

A. Santa Cruz.

Q. Who hired you?

A. Stan Torenson.

Q. When was that?

A. About a year and a half ago, or two years.

Q. And what was your job?

A. Oh, I was an all-around man, strapping and working on the labeling machines, loading trucks, loading box cars.

Q. You were shifted around from one job to another?

A. Yes.

Q. You didn't have any special job?

A. No special job.

Q. Were you ever moved over to the Stokely warehouse?

A. Yes.

Q. At whose request, or whose order, rather?

A. Either Stan Torenson or Ernie Reich.

Q. What wages were you receiving? [521]

(Testimony of Clifford Algrava.)

A. 35 cents an hour.

Q. All the time you were working there?

A. Yes.

Q. What were your hours?

A. Anywhere from ten to fourteen hours a day.

Q. When did you apply for membership in the union?

A. It was the latter part of July.

Q. And when did you receive your union button?

A. Monday, I think, August 5th.

Q. Were you initiated on Wednesday, August 7th?

A. Yes.

Q. What led you to join the union?

A. Well, I wanted shorter hours and better pay.

Q. Shorter hours and better pay?

A. Yes.

Q. What did you expect the union to do for you in that connection?

A. Well, I expected the union to back me up in it; that is, when we went out to get shorter hours and better pay.

Q. Well, what else did you expect the union to do for you? Did you expect them to represent you?

A. Yes, that is it.

Q. Did you know they had a business agent?

A. I knew they had some sort of representative, but I never knew what it was. I don't know much about the union, [522] or didn't at that time.

(Testimony of Clifford Algrava.)

Q. You speak of a representaitve. You mean to personally represent the men?

A. Yes.

Q. In negotiations with the company?

A. Yes.

Q. Were you present on Monday, about 6 o'clock, Monday, August 5th, when Mr. Huddleson spoke to a group of the warehouse men?

A. Yes.

Q. Do you recall at that time what was said and done at that meeting?

A. Yes, I do.

Q. Well, would you relate what happened?

A. Well, when Mr. Huddleson called us for the meeting—

Q. (Interrupting) Talk louder, please.

A. (Continuing)—Mr. Huddleson called us there for the meeting and all of the boys showed up. Well, he stated that he was paying as much as any cannery on the Pacific Coast, and that he couldn't pay 62½ cents an hour to the boys unless all the 57 other canners did in the State; and that we might get 62½ cents an hour if somebody else was running the cannery, but not as long as he was running it.

Q. What did he say about the union?

A. He said a union was a good thing; that he had been a [523] union man for fourteen or fifteen years himself; but, he says he couldn't afford to have a union in his cannery.

Q. Had Mr. Huddleson ever called the warehousemen together before, to your knowledge, and spoken to them on any subject at all?

(Testimony of Clifford Algrava.)

A. Nto to my knowledge.

Q. When did you learn about the initiation meeting to be held on Wednesday night?

A. When I came off shift Wednesday morning.

Q. You were on the night shift?

A. I was working nights. We just started the night shift. After that speech Mr. Huddleson gave us, the next night we started the night shift.

Q. And you learned about it as you were coming off shift Wednesday morning?

A. Yes.

Q. Who told you about it?

A. I don't exactly remember who told me

Q. About what time was that?

A. I imagine it was close to 7 o'clock in the morning.

Q. Was that the usual time that you got off shift?

A. Yes. 6 o'clock was the usual time, but I was hanging around waiting for some one.

Q. You don't remember who told you about the meeting?

A. No. [524]

Q. Do you remember what you learned about the meeting?

A. I knew there was going to be a meeting that night, but I was going to come on shift at 6 o'clock and I would find out more about it. I was going to work an hour or so and go down to the meeting.

Q. Did you discuss that with somebody?

A. I discussed it with George Costa.

(Testimony of Clifford Algrava.)

Q. Did you know whether or not it would be all right for the men to go, to get off to go to the meeting?

A. No, I never.

Q. So you intended to come to work that night at 6 o'clock, Wednesday, which was your usual time; is that correct?

A. That is correct.

Q. Did you show up for work at 6 p. m. Wednesday evening?

A. Yes, I did.

Q. What happened then?

A. Well, I went to work with George Costa. We went together. Then I went in and seen Stan Torenson and he told me, out of a clear sky, there wasn't going to be a night shift that night, and with no explanation.

I said, "Good, I want to go to the meeting, anyway."

Q. When he said there was going to be no night shift that night, what did you understand him to mean by that?

A. Well, we had only started the night shift the night before, that is, to run 24 hours a day to get out more, I guess [525] was the idea of it. I figured it was for a day or two and I figured the night shift had ended and there was no work.

Q. And did he say anything to you about the meeting, about your going to the meeting?

A. He didn't mention it.

(Testimony of Clifford Algrava.)

Q. Did he state that if you went to the meeting that night you might as well not show up for work any more, or anything to that effect?

A. No sir.

Q. Did you see anyone else around the plant at that time whom you had not seen previously?

A. Well, as I was going to go out to come home I went over to the pork and bean labeling machine and I seen a strange fellow in a gray suit. I do not know who he is until this day.

Q. Did you ever seen him before?

A. No. He was running the labeling machine. He had the pork and bean crew—some of the boys were extras—and this strange man was running the machine.

Q. Do you know whether that was Mr. Gomez or not?

A. I wouldn't say.

Q. Did you have any conversation with him?

A. No.

Q. What did you do then? Did you go on home?

A. I went home. [526]

Q. And you went to the meeting?

A. Yes.

Q. What did you do the following morning?

A. I went back to the cannery about 6 o'clock in the morning. That night before I went to the meeting I told Stan, "I will be seeing you in the morning," and he said, "O. K."

Q. When did you say that to Stan?

(Testimony of Clifford Algrava.)

A. Well, when I asked him if we were going to work that night.

Q. You said, "I will be seeing you in the morning," and he said, "O. K."

A. Yes. I said, "I will be seeing you in the morning about 6 o'clock," and he said, "O. K." I went in at 6 o'clock, George Costa and me, and I went right into Stan Torenson's office at 6 o'clock in the morning, on Thursday.

Q. Were any of the men there at that time, had they arrived yet?

A. No.

Q. What was said and done in Stan Torenson's office?

A. I went in and I said, "What time are we going to work this morning?"

Stan, he says, "You are not."

I said, "What do you mean?"

He says, "Well, I haven't got nothing to do with the warehouse any more." He says, "All I have is this little book to keep track of how things are going on. If you want to work [527] you have to see Manuel Gomez, the contractor."

Q. Anything else said then?

A. No sir.

Q. What did you say to that?

A. I said, "We might as well get outside."

Q. Who said you might?

A. I said, "I might as well get outside." I didn't know what the score was.

(Testimony of Clifford Algrava.)

Q. What did you do then?

A. I said, "I might as well go outside."

He said, "I think it will be best and will save us a lot of trouble."

Q. So then what did you do?

A. I went outside and waited for the rest of the boys to come around.

Q. Did you ever hear any talk among the men about striking the Santa Cruz plant or walking out?

A. No.

Q. If the Board orders your reinstatement will you take your job back?

A. Yes.

Mr. Edises: That is all.

Cross-Examination

Q. (By Mr. St. Sure) On this Wednesday evening, before the [528] initiation meeting when you went back to the Santa Cruz plant to go to work that evening did you see Ernie Reich there?

A. Not that I remember.

Q. Who else was there besides yourself, Stan Torenson, George Costa—was there anyone else that you recall?

A. No.

Q. Did you see Ernie Reich later that evening at the meeting?

A. I seen him, yes.

Q. What?

A. I saw him at the meeting.

(Testimony of Clifford Algrava.)

Q. Did he say anything to you that Torenson had told him that if anybody went to the meeting they might as well not show up the next day for their jobs wouldn't be there?

A. No.

Q. He didn't mention that to you?

A. No, I didn't talk to him personally that night.

Q. He didn't say a thing at the meeting while you were there about what Torenson said?

A. No.

Q. Did you say anything to any one there at the meeting about the fact that there wasn't any night shift?

A. I mentioned it, yes.

Q. Did any body make a response or say anything to you as to why that was?

A. Just casual remarks. [529]

Q. Who did you talk do, do you recall?

A. No, I don't remember; it is so far back.

Q. Was there any discussion at the meeting at all about the fact that either there wasn't any night work that night, or Torenson had said that those who did go to the meeting needn't come back?

A. No sir.

Q. Wasn't mentioned at all?

A. No sir.

Q. Was there any discussion about the fact that the initiation meeting was objected to by the management? Did anybody mention that at all?

A. No, it wasn't mentioned.

(Testimony of Clifford Algrava.)

Q. You say when you got there, about 6 o'clock on Wednesday evening you went and saw Stan Torenson?

A. Yes, I went to his office.

Q. And did you always go to his office when you went to work?

A. Always.

Q. And when you did that what did you say and what did he say?

A. I got there, George Costa and I, and I said, "Stan, is there going to be work to-night?" That is the way I put it.

He said, "No, there is not going to be a night shift tonight."

Q. Did you have any doubt when you went there about going to work? I mean why did you ask him if there was going to be [530] work that night?

A. I asked him if there was going to be work and what time we were going to work?

Q. What time?

A. Yes, what time we were going to work. We varied the starting time from half an hour or fifteen minutes.

Q. Was George Costa with you at that time when you had that conversation with Torenson?

A. Yes, I think he was.

Q. What?

A. He was.

Q. Did you say anything about going to the meeting?

A. Who is that, who said what?

(Testimony of Clifford Algrava.)

Q. Did you say anyhing about going to the meeting that night?

A. To who, George Costa, or what?

Q. To Torenson, or Costa, when you were there?

A. Yes. When he mentioned there wasn't going to be no night shift I said, "Good, I can go to the meeting tonight."

Q. Who else was working on the night shift, who had worked the night before?

A. Frank Granada, Ernie Reich was running a machine, myself, George Costa, Cirincione and another fellow, but he hadn't been around and I have forgotten his name.

Mr. Edises: Sannebeck? [531]

The Witness: No, he disappeared right after the lockout.

Q. (By Mr. St. Sure) Well, at the meeting that night did you talk to Granada, Reich, or anybody else about the fact that there wasn't any night shift work that night, and the reason for it? Did you discuss that at all among yourselves?

A. No. I took it for granted that they knew. I never talked to them that night.

Q. Well, had there been any talk there in the warehouse among the men about the fact that there had been strangers around the warehouse Monday and Tuesday and a man by the name of Gomez had been there? Did you talk with any one about it or did any one talk with you about it?

A. I didn't see Manuel Gomez, or didn't hear any talk myself.

(Testimony of Clifford Algrava.)

Q. At the meeting that night was anything said at all about the Santa Cruz plant or about conditions there or about what might happen at the Santa Cruz plant?

A. No, but there was, what do you call it, the contract?

Mr. Edises: Contract.

Q. (By Mr. St. Sure) Contract, agreement?

A. It was read, I think it was.

Q. Who read it?

A. I don't recall who read it.

Q. Don't you remember who read it?

A. I can't recall. [532]

Q. Was there any discussion, did anybody have anything to say about it as it was read, or afterwards?

A. No, just read off.

Q. Was any reason given as to why it was read to you?

A. It was a proposed agreement for Santa Cruz, I imagine.

Q. Did anybody ask you what you thought about it, whether you approved of it, whether you did or didn't like it?

A. Nobody brought that up.

Q. What?

A. It wasn't mentioned. There was no, what you call, no questions asked about it and no need to mention it.

Q. Did anybody volunteer anything or say anything, whether they liked it or didn't like it?

(Testimony of Clifford Algrava.)

A. Nobody volunteered, no.

Q. Was anything said about it at all, or was it just read?

A. Just read.

Q. Were you told whether it had been sent to the management or not, or whether the management had replied, or what was going to be done next about it?

A. Not that I recall.

Q. When did that happen, before or after the initiation?

A. I think that was read off before the initiation, if I am not mistaken.

Q. But you can't remember who read it?

A. No, I can't.

Q. Do you remember what was in it? [533]

A. I think it was a 40 hour week and the warehouse scale, 62½¢ an hour.

Q. Do you remember anything else about it?

A. I think it mentioned overtime, time and a half.

Q. Did they tell you whether it had been signed or not, or whether it had been accepted?

A. They didn't mention anything about that.

Q. Before the agreement was read, what was said, or did somebody just get up and start to read it? Did they tell what it was they were going to read, or why they were going to read it to you?

A. They mentioned it, yes.

Q. What did they say and who said it?

(Testimony of Clifford Algrava.)

A. They said, "Here is a proposed agreement." I imagine that was it.

Q. You were there, not what you imagine but what you remember.

A. Well, that is it. That is what they call it, a proposed agreement. Isn't that it?

Q. What did they call it. You were there?

A. That is what they said.

Q. Who are "they"? Who said it?

A. I don't recall.

Q. You say after the agreement was read there were no questions asked, no comments made? Nobody said a word, is that right? [534]

A. That is right.

Q. Before that time had you ever heard about this agreement before?

A. No.

Q. Before you went to the meeting on that night, that Wednesday evening, did you know that any request had been made of the management for higher wages or for anything else?

A. No.

Q. And the first you knew of any request for changes that had been made was when you went to the meeting that night when they read this agreement?

A. Yes.

Q. How long a period was this agreement to cover, do you remember?

A. I don't remember.

(Testimony of Clifford Algrava.)

Q. Weren't you interested in that?

A. I was, but I can't recall exactly.

Q. Now, on Monday evening Mr. Huddleson had called the men together and told them, among other things, that they ought to take a day or two to think over what he had said to them?

A. That is true.

Q. And on Wednesday evening was anything said at all by anybody at this meeting as to what answer they ought to make to Mr. Huddleson, or what ought to be done next?

A. No. [535]

Q. It wasn't mentioned at all?

A. Not that I recall.

Q. You gained the impression, I take it, at this Monday night discussion that, in fact, Mr. Huddleson very frankly said he couldn't afford to pay the 62½¢ an hour, if that was the demand, while his competitors were paying less. He said something to that effect, didn't he?

A. Yes.

Q. And you gathered from that that he didn't like the idea of this demand of 62½¢ an hour, didn't you?

A. Certainly.

Q. When you went to the meeting on Wednesday night nothing was said at all about what he would think about your going ahead with the union proposition and the demand for 62½¢ an hour?

A. No.

(Testimony of Clifford Algrava.)

Q. At any time, from between Monday and the Wednesday night meeting *meeting,* or at the Wednesday night meeting, did any one suggest that you heard, or did you have a discussion with anybody concerning what you were going to do as to Mr. Huddleson's suggestion that you think it over and let him know what you wanted to do?

A. Not that I remember.

Q. At the Wednesday night meeting were any plans made, or any discussion had as to what you were going to say to: Mr. Huddleson if he asked you what the result of your thinking it [536] over had been?

A. No.

Q. Did anybody tell you what the next move was going to be in so far as this contract was concerned?

A. No.

Q. Did anybody ask what the next move was going to be?

A. I don't remember?

Q. Pardon me?

A. I don't remember.

Q. How long did this meeting last Wednesday night?

A. About an hour and 45 minutes, I think.

Q. How much of that time was taken up with the initiation itself?

A. A little better than half an hour, I imagine.

Q. What did you do the rest of the time?

A. I was listening to the other men talking.

(Testimony of Clifford Algrava.)

Q. What were they talking about? I don't want to know what they did or said other than in connection with the Santa Cruz plant. Did they talk about the Santa Cruz plant at all?

A. Just in that proposed agreement; that is all they mentioned about Santa Cruz.

Q. Well, in the hour and 15 minutes that was spent, besides the time for initiation, did it take all that time to read the agreement?

A. No. [537]

Q. What else did they talk about with reference to the agreement with Santa Cruz in the time that remained?

A. They mentioned all about the union, what it was composed of, and so forth.

Q. What did they say as to that?

A. They just mentioned how organization was the best thing, and so forth.

Q. Who mentioned that? Who did the talking in that connection?

A. I think it was Brother Tarling.

Q. Did he say anything about Santa Cruz in particular?

A. No.

Q. Did Mr. Woods do any talking that night?

A. Oh, he just made a little speech, mentioned the union activities, and so forth.

Q. Did anybody say that an agreement had been mailed to Mr. Huddleson?

A. Not that I recall.

Q. Were you asked that night, after the agreement was read, whether you approved it? Did

(Testimony of Clifford Algrava.)

you take any vote as to whether you approved or thought it was all right, or didn't?

A. No.

Mr. St. Sure: I have no other questions. [538]

Redirect Examination

Q. (By Mr. Edises) Mr. Algrava, had you ever belonged to a union before?

A. No.

Q. Did you know anything about unions before?

A. No.

Q. How old are you?

A. Eighteen.

Q. Eighteen?

A. Yes.

Q. What was the purpose of this meeting on Wednesday night?

A. To get initiated.

Q. Who was present at the meeting, speaking largely; I mean was it just the Santa Cruz and Stokely boys, or were other members there?

A. Just a private meeting, Santa Cruz and Stokely boys.

Q. Just Santa Cruz and Stokely?

A. Yes.

Q. Well, did you have the usual type of initiation? I mean did you have a lot of horse play, and so on?

A. This wasn't that type; sort of a business session.

Mr. Edises: That is all.

(Testimony of Clifford Algrava.)

Recross Examination

Q. (By Mr. St. Sure) During the time that elapsed, or [539] during the time between the Monday evening when Mr. Huddleson talked with all of you out there at the warehouse until Thursday morning when you went back to the plant and Stan Torenson told you that if you wanted o work you would have to see Gomez, did you talk to anyone at all, either connected with the union or any of your fellow-employes, concerning the things that Mr. Huddleson had talked with you about on Monday night?

Trial Examiner Traynor: Will you read the question, Mr. Reported?

Mr. St. Sure: I will withdraw it. It is probably too long.

Q. (By Mr. St. Sure) Did you talk to anybody, between Monday evening and Thursday morning about Mr. Huddleson's attitude toward your demands, or the demand for 62½¢ an hour wage?

A. I talked to George Costa quite a bit.

Q. In your talking with him did you discuss with him what the outcome of the matter might be?

A. No, we didn't have any thought for the outcome in the matter.

Q. What did you talk to George Costa about? I mean what did you say to each other about it?

A. It is so far back I can hardly remember.

Q. Well, did you have the feeling, after Mr. Huddleson [540] talked to you on Monday evening, that he meant what he said when he said he couldn't

(Testimony of Clifford Algrava.)

pay 62½¢ an hour while the other canners were paying less?

A. I didn't know for sure.

Q. You didn't know whether he meant it or not?

A. No.

Q. Did you discuss with any of the men at all, or with any one, to try and find out whether they thought he meant it or not?

A. George Costa—That is one of the things we talked about.

Q. At the meeting on Wednesday evening did you talk with anyone or did anyone there say anything at all about what Mr. Huddleson had said to you, and all of you, on Monday night?

A. No, it wasn't a topic of conversation at all.

Q. Pardon me?

A. Nobody was talking about it.

Q. Well, I gather from you that after you heard Mr. Huddleson talk on Monday night that you didn't feel that he was going to discharge everybody if they insisted upon these demands, did you? You weren't sure whether he meant it or not.

A. I didn't think he was going to discharge anybody.

Q. Didn't think he was?

A. No. [541]

Q. What did you think the purpose of the discussion was?

A. Explain yourself.

Q. I mean, what was your impression—Mr. Edises asked others what their impression was or

(Testimony of Clifford Algrava.)

what their understanding was—of what Mr. Huddleson meant when he talked to you on Monday night? What did you gather from it? You say that he never called the men together before while you were there. That was rather an unusual occasion, I take it, his calling the men in and talking with them?

A. The way the speech came up, so abruptly. I couldn't say whether he meant it or not. I don't know the feeling of the speech. I couldn't explain whether he meant it or not. I couldn't sort of get it in my head.

Trial Examiner Traynor: May I ask a question: What did you think he meant when he asked you to think it over?

The Witness: I wasn't sure.

Mr. St. Sure: Nothing else.

Mr. Edises: That is all.

(Witness excused)

Mr. Edises: Frank Phillips.

FRANK PHILLIPS,

called as a witness for the National Labor Relations Board, being first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Edises: What is your address, Mr. Phillips? [542]

A. 5610 Hilton Street.

(Testimony of Frank Phillips.)

Q. Are you married?

A. Yes sir.

Q. Any children?

A. One.

Q. How old?

A. Five.

Q. Did you work for Santa Cruz or Stokely?

A. Santa Cruz.

Q. Day or night shift?

A. Day shift.

Q. When did you go to work for them?

A. Oh, about two years and four months ago.

Q. Any complaints about your work?

A. No sir.

Q. What was your job?

A. Oh, I done everything. I worked in the Shipping Department, on the labeling machine, loading cars; and until I got hurt I worked on a labeling machine.

Q. You were moved around from one job to another?

A. Yes sir.

Q. Ever moved over to Stokely's?

A. Yes, lots of times.

Q. What appeared on your pay check?

A. Santa Cruz check. [543]

Q. Santa Cruz Fruit Packing Company?

A. Yes sir.

Q. The same check you got while you were working at Stokely's?

(Testimony of Frank Phillips.)

A. Same thing.

Q. When did you apply for membership in the union?

A. Oh, around July 15th, or something like that.

Q. 1935?

A. 1935.

Q. Had you ever belonged to a union before?

A. Yes.

Q. What union?

A. Boilermakers.

Q. How long had you belonged to the boilermakers' union?

A. I belonged to them about three or four years.

Q. Three or four years?

A. Yes.

Q. Did you know something about union activities?

A. Yes, a little bit; not much.

Q. What was your reason for joining the warehousemen's union?

A. To better conditions, and for shorter hours and better pay.

Q. And what did you expect the union to do for you in that respect? [544]

A. Well, they usually can get you the money.

Q. Did you expect the representatives of the union, that is, the officers of the union to dicker with the company for you?

A. Yes sir.

Q. And were you willing to place matters in their hands and let them handle things?

(Testimony of Frank Phillips.)

A. Yes sir.

Q. You understood, did you, that before any final agreement could be arrived at, that it would have to be O. K.'d by the men?

A. Yes sir, always.

Q. Were you there on Monday when Mr. Huddleson spoke to the men?

A. Yes sir.

Q. Were you wearing your union button?

A. Yes sir.

Q. What did Mr. Huddleson say about the union?

A. Oh, he got up there and got all the boys together and he said, "I see that you fellows joined the union by you fellows wearing your badges around here." Then he said, "Listen, fellows," he says, "I understand that you fellows want 62½ cents an hour." He says he couldn't pay 62½ cents an hour while the other canneries were paying low wages. He said he couldn't do it, that he would have [545] too much competition that way; and he said that he wouldn't pay 62½ cents an hour. He said before he would do that, he would die with his shoes on, or something to that effect.

Q. What else did he say?

A. And some one of our boys, Ed Resburg, he got up and said——

Before that Mr. Huddleson said, "Why pick on me first?"

Then Ed Resburg got up and said, "If you start offi first, the rest of them will do it."

(Testimony of Frank Phillips.)

Then he said, "Why make me the goat?"

He said that he would give us a couple of days to think it over. He said he had a contractor that would come in there and do it for less than we were doing it. He said if we went out one door, he would have the contractor come in the other door.

Q. Did he say anything else, as far as you can remember?

A. Well, no; only when he was getting through he said, "I would be a son-of-a-bitch to pay 62½ cents when the rest of them are paying 35 and 40 cents."

Q. Do you know whether the warehousemen, or any of the men, ever made any wage demands on Mr. Huddleson, or any Santa Cruz official, prior to the time that you joined the union?

A. A lot of the fellows—I think some of the boys got 40 cents an hour.

Q. Do you know whether there was ever any organized [546] demand or request for an increase in wages or the shortening of hours?

A. No, I don't.

Q. There wasn't?

A. Not that I know of.

Q. Pardon me?

A. Not that I know of.

Q. What time did you get off work Wednesday night?

A. 4:30.

Q. Was that your usual quitting time?

A. Well, no.

(Testimony of Frank Phillips.)

Q. How did you happen to quit at that time?

A. Bob told me, Mr. Anger, that morning about 9:30 that we were going to get off at 4:30; that he saw Mr. Torenson and Torenson said it was O. K. for the boys to get off at 4:30.

Q. And did you go to the meeting that night?

A. Yes sir.

Q. Did you hear the agreement read?

A. Yes sir.

Q. Do you remember who read it?

A. I think it was Bob Anger.

Q. And was there any discussion about the agreement?

A. All the boys were well pleased with it.

Mr. St. Sure: I object to that as a conclusion.

[547]

Q. (By Mr. Edises) Did any of the boys say anything, or is that your impression?

A. No. They said, "Fine." I heard a lot of them say "Fine; that is good."

Q. Was that all the discussion there was?

A. Yes, about the agreement.

Q. What did you talk about mostly at the meeting?

A. Oh, they talked about different union business; they didn't have much to say.

Q. Was there much talk about why it was a good thing to belong to a union, and was there any talk along that line?

A. Yes; and they told us that unionism was a good thing for us, and that we should only buy

(Testimony of Frank Phillips.)

union made stuff and that way better conditions all over.

Q. Had you ever heard any talk of a walk-out or a strike at the Santa Cruz plant at any time?

A. No sir.

Q. Did you show up for work the next morning?

A. I did.

Q. What did you find when you got there?

A. Well, we usually go in the side door into the warehouse, and I got there and I seen the whole plant there was vacant, and no machines around there; and so I went to go in through the door and I seen it was locked.

A watchman was there and I said, "Open up and leave us [548] go in."

He said, "No, you fellows are all fired." He says, "All the fellows who has got buttons are fired, and the fellows without buttons can go to work."

Q. Who said that?

A. Gene, the watchman.

Q. About what time was that?

A. About a quarter to seven.

Q. And who else was present at the time?

A. Oh, I don't know. A lot of the boys were around there, but I was talking to him myself.

Q. You were talking to him yourself?

A. Yes sir. And he made all the fellows park their cars away from the plant.

Q. How old are you?

A. Sir?

(Testimony of Frank Phillips.)

Q. How old are you?

A. 35.

Q. 35?

A. Yes sir.

Q. Will you take your job back if it is offered to you?

A. Yes sir.

Mr. Edises: That is all.

Cross Examination.

Q. (By Mr. St. Sure) On Monday evening at this meeting [549] you say you remember that Mr. Huddleson said that he couldn't pay the 62½ cents an hour while the other canneries were paying less?

A. Yes sir.

Q. And he said before he would, or could do it, or would do it, he would die with his shoes on, or something of that kind?

A. Yes.

Q. He didn't see why they wanted to make him the goat and pick on him first?

A. Yes sir.

Q. You said Resburg said something about if he started it, others might follow, and he said he didn't see why he should be the first?

A. That is right.

Q. And he told you to take a couple of days to think it over?

A. Yes sir.

Q. Did any of you come back to see him and talk to him about it?

(Testimony of Frank Phillips.)

A. Didn't have a chance.

Q. Did he ask you to come and talk to him?

A. No, he said, "I will give you fellows a couple of days to think it over."

Q. When he first started his talk, didn't he say, "Why [550] didn't you come to me if you wanted more money?"

A. No, he said why didn't we go to him first before we joined the union. That is what he said.

Q. Did anybody answer that at all, anybody say anything to that?

A. No, nobody did.

Q. Then he told you that he had a contractor who could do it for less?

A. Wait a minute—yes, somebody said that if we went to see him before we joined the union, we would get fired.

Q. Who said that?

A. I don't know; I am not sure, but I know one of the boys said that.

Q. Did Mr. Huddleson say anything to that?

A. He said, "I have treated you boys fair and square, haven't I?"

Q. Then he said something about he had a contractor who could do it for less money, and that if you insisted upon the 62½ cents, why the assumption was the contractor would have to take the work over? He said something of that kind, didn't he?

A. Yes. Well, he said he wouldn't pay the 62½ cents. He said he would have a contractor come in first.

(Testimony of Frank Phillips.)

Q. Yes. You thought he meant what he said, didn't you?

A. Oh, sure, I guess I did. [551]

Q. At that time did you know whether or not any form of agreement, or contract had been sent to Mr. Huddleson?

A. Well, when he was speaking to us that night, I believe it was Manuel Blanco, he said—well, Huddleson said something about the boys not coming to see him first, and Manuel Blanco said, "Well, we sent you an agreement."

And he says, "I haven't seen it."

Q. Did you know anything about any agreement at that time?

A. I have heard it said there was one sent to him.

Q. I know, but on that Monday night did you know then that there was an agreement that had been sent to him?

A. According to what he said, he said no, he didn't get it.

Q. I mean did you know anything about it, or had you heard anything about it before then?

A. Yes, I heard it before, that he was going to get it.

Q. That he was going to get it?

A. Yes.

Q. You don't know whether he had or not?

A. No, I couldn't say that.

Q. Had you seen the agreement yourself?

A. I didn't see it.

Q. Did you know what was in it?

(Testimony of Frank Phillips.)

A. No, I did not.

Q. Well, now, when you left there on Monday evening after [552] Mr. Huddleson was through talking, he said he would give you a couple of days to think it over. Did you have the impression that he would pay the 62½ cents an hour that you were asking for?

A. Well, no. I didn't think he would right then, but I thought maybe later on he would.

Q. What made you think that?

A. Well, I don't know.

Q. How do you reason it out? You say one reason you joined the union was the union usually got the money. Just what was your reasoning as to how they would do it?

A. Like they would go to see him and have a talk with him, and they might arbitrate for a little while, and then he might come through with it.

Q. Well, as you heard Mr. Huddleson talking that evening did you get the impression that he would be in the mood to compromise and wanted to talk arbitration, or did you think he meant what he said?

A. He might have been bluffing; we didn't know.

Q. Well, did you decide to call his bluff and find out? Wasn't that what happened?

A. No, he called ours, I guess. He kicked us out.

Q. Well, now, when you went to the meeting on Wednesday night you say that this agreement was read, you remember that? [553]

A. Yes, at the meeting.

(Testimony of Frank Phillips.)

Q. At the meeting?

A. Yes sir.

Q. When you first arrived there and the meeting was called to order, what happened then? Did you have a general discussion? I don't want to pry into your business there, or what your initiation amounts to, but I mean what happened with reference to the Santa Cruz plant from the time you got there at the meeting until the time you left. What was said about it, and about conditions, and about the agreement?

A. Well, when the meeting started they asked if we had permission to get off.

Q. Who asked that?

A. I think it was Brother Woods.

Q. All right. Was Ernie Reich there at that time?

A. Yes sir.

Q. Did Ernie Reich at that time stand up and say that Torenson had told him if anybody went to the meeting they needn't come back to work?

A. Yes, I believe he did.

Q. You heard Ernie Reich say that at that time?

A. Some words to that effect. He said that if the boys—here is what Ernie said: After the meeting they said for the boys to go back to work, the night crew. That was what was said. [554]

Q. Well, now, my first question was, when Brother Woods asked whether they had permission, I asked if Ernie Reich got up and said Torenson had told him that whoever went to the meeting

(Testimony of Frank Phillips.)

needn't come back to work, that they didn't have any job.

Did Ernie Reich say that that night?

A. No, I don't think he did.

Q. But he did say something, didn't he, about what Torenson had told him?

A. No. He just said, as I recall it, "You fellows, after the meeting go back to work."

Q. After what?

A. After the meeting go back to work, the night crew. And they said, "Yes," and they wanted to rush the meeting so the boys could go back to work, the night shift.

Q. Reich said that?

A. No, not Reich.

Q. Who did?

A. Brother Woods.

Q. What did Reich say?

A. I don't remember what he said.

Mr. Edises: I submit he has already answered it.

Mr. St. Sure: He has answered two ways, that is the trouble.

Trial Examiner Traynor: I think those are fair questions. [555]

Q. (By Mr. St. Sure) Well, now, at the time that Brother Woods asked if you got permission, just give us your best recollection now of what Reich said when that question was asked.

A. Well, he didn't answer; Bob Anger answered.

Q. Just a minute ago you said that Reich answered it. Were you wrong?

(Testimony of Frank Phillips.)

A. He answered for the night crew but not for the day shift.

Q. Didn't Reich say he had talked to Torenson around 6 o'clock and Torenson told him if the men went to the meeting they needn't come back, that they wouldn't have any jobs?

A. He didn't say that.

Q. He didn't?

A. No.

Q. Now, you said somebody said they wanted to hurry up the meeting to get back to work, is that right?

A. Brother Woods said, "We will hurry the meeting up to give the boys a chance to go back to work."

Q. Was Clifford Algrava there?

A. Yes.

Q. Was George Costa there?

A. Yes.

Q. Did either of them get up and say they had seen Torenson and Torenson said there wasn't going to be any night shift? [556]

A. I believe I heard somebody say something about there wasn't going to be a night shift.

Q. What did you hear about that? Who said it, and what was said?

A. Maybe before the meeting some one of the boys said that. I am not sure.

Q. When Woods said, "Boys, let's hurry and get the meeting over so these fellows can go back,"

(Testimony of Frank Phillips.)

didn't anybody get up and say, "Well, there isn't going to be any work tonight?"

A. No, not that I know of.

Q. So they hurried up so they could go back to work; is that right?

A. Yes sir.

Mr. St. Sure: May we have a recess for a few minutes at this time?

Trial Examiner Traynor: We will take a five minute recess.

(At this point a recess was taken, after which proceedings were resumed as follows:)

Q. (By Mr. St. Sure) Now, Mr. Phillips, you say when the meeting began that Mr. Woods said something about whether or not the boys had permission, and then something was said about hurrying to get through the meeting so the night shift could get back to work. That is right, is it?

A. Yes, that is the pork and bean gang. [557]

Q. What?

A. That is the pork and bean gang.

Q. Well, who was on the pork and bean gang?

A. Larry Doyle, Ed Sannebeck, Al Pio—I don't know who else.

Q. Ernie Reich was the assistant foreman there in the warehouse, wasn't he?

A. Yes sir.

Q. And do you recall now what he said, if anything?

A. No, I don't believe he said anything.

(Testimony of Frank Phillips.)

Q. You don't think he said anything?

A. No.

Q. How about Costa and Algrava, did they say anything?

A. Not that I know of.

Q. What?

A. Not that I know of.

Q. All right. Then what else was said? What was done next after the preliminaries you mentioned?

A. Bob Anger, he got up and read the agreement. It was a duplicate of the one they sent to Huddleson.

Q. Did he say it had been sent?

A. I was told that one was sent to him.

Q. Did they say when?

A. Well, it was—they said he would get it on Friday, and then the following Monday he had that talk with us.

Q. Well, the talk that you had was on Monday, the 5th, is [558] that right?

A. Right.

Q. And the record shows that the agreement was mailed on Tuesday, the 6th, from San Francisco. Were you told that or were you told that it had been mailed before that?

A. Might have been—I was told it was mailed before that.

Q. Who told you that?

A. Bob Anger.

(Testimony of Frank Phillips.)

Q. All right. Did Anger say anything about the agreement at all, or did he just read it?

A. He read it there at the meeting.

Q. Did he make any comment on the agreement at all, or what was going to be done about it, or what Huddleson was going to do about it, or anything else?

A. No, he didn't say anything about that.

Q. Did Anger, or anybody else, say what the next move was going to be, what the representatives were going to do, or what you were going to do, or what anybody was going to do?

A. Yes.

Q. What was said?

A. We were all going back to work.

Q. Then, in so far as the agreement was concerned, was anything said about what was to be done about that and about the demands that it contained?

A. Well, they just told us there that we would go back to [559] work as usual, and they would go and see Huddleson.

Q. When were they going to go and see him?

A. I guess in a couple of days, or maybe the next day; I don't know.

Q. Who was going to go and see him?

A. Brother Woods.

Q. Did anybody say anything, was there any discussion at all about what Huddleson had said to you on Monday night?

(Testimony of Frank Phillips.)

A. Well, after the meeting we got to talking, some of the boys, and we said, I said, "I think we are going to get canned."

Q. Why did you think that?

A. From the way he talked; the way he talked.

Q. And who did you talk with after the meeting, with all the boys there and talking about it?

A. After what meeting?

Q. You say after the meeting you stood around and talked and you thought you might get canned.

A. That was the night that Huddleson talked to us.

Q. Was there any talk on Wednesday night about what Huddleson had said, or what was going to happen, or what might happen?

A. No.

Q. Not a word said?

A. No. All that was said, when we left there was "I will [560] see you tomorrow morning."

Q. On Monday night, after Huddleson had talked to you, as I get you, you and some of the others were concerned and thought you might get canned?

A. Yes, when I seen Mr. Gomez around the warehouse there walking around.

Q. Did you still have this notion when you went to the meeting Wednesday night, or did you think everything was straightened out?

A. No, I didn't think it was straightened out.

Q. What do you remember about this agreement that was read?

(Testimony of Frank Phillips.)

A. Oh, it just said that we would get 62½ cents an hour, that we would work 40 hours a week, and over 40 hours a week it would be time and a half.

Q. How long was the agreement to run?

A. It didn't say.

Q. Did it have any term at all, any provision about how long it was to run?

A. They didn't state that.

Mr. Edises: Just a minute.

Mr. St. Sure: I am entitled to test his recollection as to what he heard it was.

Mr. Edises: I don't believe that is the question asked. You asked about a term of the contract, whether the [561] contract contained such a term. The contract itself is the best evidence.

Mr. St. Sure: I will withdraw the question.

Q. (By Mr. St. Sure) Do you recall hearing anybody saying how long the contract was to run?

A. No, I did not.

Q. Do you remember anything else about the provisions of the contract as it was read to you that you can tell us now?

A. No, I don't remember anything else. I was just paying attention to the money, I guess, and the hours.

Q. After the agreement was read, were any questions asked about it, or any discussion concerning it?

A. Well, no. I just heard a lot of the boys say, "Gee, that is fine; that is all right."

Q. Was any vote taken?

A. No.

(Testimony of Frank Phillips.)

Q. Did anybody tell you, or anybody say what the next move was to be, except, you say, you were to go back to work? Was that the only thing said?

A. Yes sir.

Q. Who said that?

A. Well, they told us to come back the next morning.

Q. Who said that?

A. Who said for us to go back to work?

Q. Yes. [562]

A. All the fellows said, "I will see you fellows tomorrow morning."

Q. Well, did Mr. Woods, Mr. Anger, or anybody else say, "Well, go on back to work in the morning and forget it until the next meeting," or anything of that kind?

A. No, they just told these other fellows to go back.

Q. Who told the other fellows to go back? Did Anger or Woods say it?

A. Woods told the pork and bean fellows to go back.

Q. At that time did Ernie Reich say anything about the conversation he had with Torenson when Torenson told him the boss said if any of the boys went to the meeting, they needn't come back because there wouldn't be any jobs?

A. Not that I know of.

Q. Reich was there, wasn't he?

A. Yes, all the boys were there.

Q. Now, did you do picket duty?

A. Yes sir.

(Testimony of Frank Phillips.)

Q. And during the entire time, from that Thursday morning until the time that the hot cargo order was listed, were you there during that whole period as a picket?

A. Yes sir.

Q. Did you work daytimes sometimes on the picket line and nights sometimes?

A. Yes sir. [563]

Q. What did you do while you were there as a picket?

A. Walked up and down 14th Street.

Q. Did you stop any trucks?

A. Yes, I stopped a few of them.

Q. How did you stop the trucks?

A. Just get out and waved my hand and told them there was a picket line; that is all.

Q. Did they turn back or go through?

A. No, they turned back; all them that carried buttons turned back.

Q. How about those that didn't carry buttons? Did you stop them?

A. They would go through.

Q. They went through?

A. Yes.

Q. Did you tell any of them not to come back?

A. No, we just told them that if they wanted to better their conditions to not go down there; that there was a picket line here. They said, "All right," but they would come back and go in anyhow.

Q. Did any of the men whose trucks you stopped, and that didn't have buttons, tell you they owned

(Testimony of Frank Phillips.)

the trucks themselves and that they were farmers and were bringing their produce in?

A. No, we didn't ask them. We just told them not to go [564] through, that there was a picket line. And if they went through, they just went through, that is all.

Q. Were you on duty as picket when Moore and Heide were arrested?

A. Yes, I believe I was.

Q. Do you know what happened there that night, and why they were arrested?

A. Yes. They said they were fooling around with a switch.

Q. And had Moore and Heide been there before on the picket line, or had they been around the Santa Cruz plant during the time the picket line was there?

A. Might have passed there.

Q. Did you see Moore and Heide that night before the arrest?

A. Maybe I did; I wouldn't say for sure.

Q. Where were they arrested, do you know?

A. Supposed to be down near the spur track.

Q. Do you know who arrested them?

A. I don't know who it was.

Q. Pardon me?

A. A couple of speed cops.

Q. And you understood that was because somebody thought they were trying to throw a switch?

A. That was what I heard. [565]

(Testimony of Frank Phillips.)

Mr. Edises: Just a minute. I am going to ask that that go out, as far as the answer is in, and I am going to object to the question because I feel in the first place it has not been established that they were arrested for any particular reason, or the grounds for their arrest.

Mr. St. Sure: Do you question that?

Mr. Edises: I know nothing about the circumstances. I understand there was an arrest, but so far as the competency of this witness to testify to the cause, I question it.

Mr. St. Sure: I will withdraw the question.

Q. (By Mr. St. Sure) Do you know a man by the name of Moran?

A. Yes, I know him.

Q. And was he there or near the Santa Cruz plant during any of the time that the picket line was out?

A. No, not that I know of.

Q. When did you know him before this trouble?

A. I seen him down at the hall a lot of times.

Q. You never saw him near the Santa Cruz plant at all?

A. No.

Q. You say you have seen him down at the hall. What hall do you refer to?

A. 908 - 7th Street. He lives down there.

Q. I mean, when you saw him was he at the union headquarters? [506]

A. No, around 7th Street down there.

(Testimony of Frank Phillips.)

Mr. St. Sure: No other questions.

Redirect Examination.

Q. (By Mr. Edises) In regard to the night shift, Mr. Phillips, was there a distinction between the pork and bean gang and the other members of the night shift?

A. Yes.

Q. Explain the difference. What is the difference between them?

A. Well, when we are busy there we have an extra night shift.

Q. An extra night shift?

A. Yes, and then there is a regular night shift for the pork and beans. See? And that is what we were told, to go back; the pork and bean gang was told to go back to work.

Mr. Edises: That is all.

(Witness excused.)

Mr. Edises: Nick DeCarlo.

NICK DeCARLO,

called as a witness for the National Labor Relations Board, being first duly sworn, testified as follows:

Direct Examination.

Q. (By Mr. Edises) What is your name?

A. Nick DeCarlo.

Q. Where do you live? [567]

A. 982—66th Avenue.

(Testimony of Nick DeCarlo.)

Q. How old are you?

A. 25.

Q. Are you married?

A. No.

Q. Did you work for Santa Cruz or Stokely?

A. Both.

Q. Both?

A. Yes.

Q. Who were you hired by?

A. Stan Torenson.

Q. At the Santa Cruz plant—when was this?

A. Two and a half years ago.

Q. Have you worked for them steadily since?

A. Yes.

Q. Ever had a complaint about your work?

A. No.

Q. I mean, was your work ever complained against by any official of the company?

A. No, it wasn't.

Q. What were your wages?

A. 35 cents an hour.

Q. During the entire period you were there?

A. Right.

Q. And what were your hours? [568]

A. Well, anywhere from eight to fourteen hours a day.

Q. Any overtime?

A. No overtime.

Q. I mean overtime pay.

A. No overtime pay.

Q. Were you paid a straight rate for overtime?

A. 35 cents.

(Testimony of Nick DeCarlo.)

Q. When did you apply for membership in the union?

A. In the latter part of July.

Q. And what led you to apply?

A. What led me to apply?

Q. What were your reasons for joining?

A. Well, I wanted better hours and more pay.

Q. Were those the chief things you were concerned about?

A. I suppose so.

Q. What was your work, was it all around work?

A. I did a little of everything—worked with the label gang, shipping crew, loaded box cars, strapped cases, and stitched fibre cases.

Q. Were you changed around from one job to another from day to day?

A. Yes sir.

Q. And at various times were you moved over to the Stokely plant and back again?

A. Yes. [569]

Q. Did you receive the same type of pay checks?

A. Yes, all Santa Cruz checks.

Q. Santa Cruz checks?

A. Yes.

Q. Were you there on Monday when Mr. Huddleson spoke to the men?

A. Yes, I was.

Q. Were you wearing a union button?

A. Yes.

Q. What was said at that meeting?

A. Well, he said he didn't think he could pay us more wages before the rest of the canneries

(Testimony of Nick DeCarlo.)

could pay it with him, and he wouldn't recognize the union; that he didn't want to be the first one to raise because he would be put out if he was. He said also that if we went ahead with the union, we were just fucking ourselves and wouldn't be fucking him.

Q. Anything else that you now recall?

A. That is about all that I remember.

Q. What did he say about a contractor?

A. Well, he said if we went out he could have a contractor in there to take our place the next day.

Q. Had you ever made any threat to Mr. Huddleson, or any other official of the plant, about going out?

A. No.

Q. Was there any talk at all among the men about a walk- [570] out or a strike?

A. No.

Q. When you joined the union did you understand that the union officials were to do your negotiating for you?

A. Yes, they were to have a representative for us.

Q. Did Mr. Huddleson ask you to think anything over?

A. Well, he did say something about giving us a couple of days to think it over, whether we wanted to go on with the union or work for him.

Q. Did he say he wanted anybody, or you, to come to him and tell him what you had decided to do?

A. No, he didn't.

(Testimony of Nick DeCarlo.)

Q. And did he set any particular day when you were supposed to see him?

A. No.

Q. Do you know Mr. Gomez?

A. Only by sight. I have seen him around.

Q. Did you see him on Monday around the plant?

A. Yes.

Q. Tuesday?

A. Saw him Tuesday.

Q. Wednesday?

A. Yes.

Q. What time Wednesday?

A. Wednesday about 3:00 or 3:30 in the afternoon. [571]

Q. Anybody with him?

A. No, I think he was alone.

Q. What was he doing?

A. He was around the pork and bean machine looking it over.

Q. Were you on the day shift?

A. Yes.

Q. Did you go to the initiation meeting?

A. Yes.

Q. Who told you about the meeting?

A. Bob Anger.

Q. Do you remember when?

A. He told me about 9:30 in the morning.

Q. And what did he tell you at the time?

A. Told me that he had seen Mr. Torenson and he had got permission for us to leave at 4:30 in the afternoon.

(Testimony of Nick DeCarlo.)

Q. Did you knock off at 4:30?

A. Yes sir.

Q. Did you go to the meeting?

A. Yes.

Q. And do you remember what was said and done at the meeting?

A. Well, the contract was read.

Q. Do you remember who read the contract?

A. I believe it was Mr. Anger; I don't remember for sure.

Q. Well, is there any particular reason why your recollec- [572] tion of that should be dim? Was it an important part of the meeting?

A. Yes, it was.

Q. Is your recollection of that incident any dimmer than that of any other part of the meeting? Let me put it this way: Do you remember that initiation meeting clearly, or is your recollection of it sort of hazy?

A. I don't remember everything about it.

Q. How long did the meeting last?

A. Around two hours, or an hour and three quarters.

Q. How long did the initiation take?

A. It took about three-quarters of an hour.

Q. And what was done the rest of the time?

A. Well, they had initiation and read over the contract, and I think Mr. Woods talked a little bit.

Q. Did anybody say anything about the men not being taken back on account of their having

(Testimony of Nick DeCarlo.)

gone to the meeting, or anything along that line?

A. No, I didn't hear anything about that.

Q. Was there any question in your mind about your being permitted to go back to work at the usual time the next day?

A. No, there wasn't.

Q. Do you remember hearing anything said about the night men going back to work?

A. They were to go back to work after the meeting. [573]

Q. Which night men?

A. The pork and bean crew.

Q. The bean crew?

A. Yes.

Q. How did you know that?

A. Well, Bob Anger told me about it, and he said he had permission for all the boys to go to the meeting.

Q. That was in the morning when you spoke to Bob Anger?

A. Yes.

Q. Do you remember hearing anybody at the meeting say anything about the night men going back to work?

A. Some of the men on the crew said they had permission from him to go to the meeting and to go back to work after the meeting.

Q. Had you ever belonged to the union before?

A. No, I didn't.

Q. How old are you?

A. 25.

(Testimony of Nick DeCarlo.)

Q. In the event that the Board orders your reinstatement will you take your job back?

A. Yes, I will.

Mr. Edises: That is all.

Cross-Examination.

Q. (By Mr. St. Sure) Did you understand on Monday evening, at the time the meeting was held when Mr. Huddleson spoke to [574] the men, that the demand was for 62½ cents an hour?

A. Yes, I did.

Q. Did you understand that the demand also was made for overtime at time and a half?

A. Yes.

Q. And did you understand also that the demand was for a 40-hour week?

A. Yes.

Q. And you understood Mr. Huddleson to say that he couldn't meet those demands, and that he certainly couldn't meet the demand of 62½ cents an hour, didn't you?

A. Yes, he did.

Q. Was it your thought that the union could overcome Mr. Huddleson's objection to that 62½ cents an hour demand?

A. Well, I thought they could help us and do what they could.

Q. Just what was your reasoning as to what the union would do for you to secure that 62½ cents an hour? How did you understand they were going to go about it?

(Testimony of Nick DeCarlo.)

A. Well, they would have some business agent or some one to talk it over with Mr. Huddleson for us.

Q. Well, supposing—what was your reasoning as to what would happen next if Mr. Huddleson meant what he said when he said he couldn't pay the 62½ cents, or any other scale higher than what his competitors were paying? [575]

A. I didn't get that.

Q. What was your idea as to what would happen next if the union people went to Mr. Huddleson and said, "We want 62½ cents an hour," and he said, "I won't pay it, and I won't pay more than I am paying now because I have competitors paying the same amount"? How did you reason as to what would follow next?

A. Try until they did get it.

Q. Well, by "try," what do you mean? Go and talk to him again?

A. Yes.

Q. Had you or any of the men, before you joined the union tried to talk to him yourselves?

A. No, but I talked to other bosses that had charge, about wages.

Q. Who did you talk with?

A. I talked with Bert Gear.

Q. What was his job with Santa Cruz?

A. Well, he was, I think, assistant superintendent there.

Q. When was that?

(Testimony of Nick DeCarlo.)

A. Oh, about two or three months before we were put out.

Q. Well, after Mr. Huddleson had said to you that he couldn't meet that demand, and that he would have to get a contractor in if the increase was insisted upon, what was your idea of what the next move was going to be, what was going to happen next? [576]

Mr. Edises: I don't want to interrupt unnecessarily, Mr. St. Sure, but it seems unless you can establish in some way that his idea was either communicated to the men or resulted from a discussion with the men, or was talked of between the men, I fail to see that it has any bearing or any significance.

Mr. St. Sure: You asked him why he joined the union. You opened up the matter. You asked what his purpose was in joining the union, and I think we are entitled to go further and ask how he expected that purpose to be accomplished. That is my one thought in pursuing the matter.

Mr. Edises: May we have a ruling?

Trial Examiner Traynor: Your objection is sustained.

Mr. Edises: May it be understood that it simply goes to the form of that question? If, Mr. St. Sure, you can establish in any way that there was a communication or discussion among the men, I have no objection to the matter.

Q. (By Mr. St. Sure) Before you applied for membership in the union did you talk to anybody

(Testimony of Nick DeCarlo.)

as to why you wanted to join the union, or what the union could do for you?

A. Not anybody with the union, no.

Q. Well, did you talk with any of your fellow-workers?

A. Yes, I did.

Q. Who did you talk with?

A. Bob. [577]

Q. Bob Anger?

A. Yes.

Q. Anybody else?

A. A few of the other boys around.

Q. Did Bob Anger say to you what the union would do, or what method the union would use to accomplish the things that you were interested in?

A. No, he didn't.

Q. Was anything said to you about the advantage of your joining some sort of an organization, that is, by Anger or anybody else?

A. By joining the union?

Q. Yes.

A. Well, if we belonged to the union we would get more money and less hours.

Q. Who said that?

A. Well, that was what the agreement called for.

Q. The thing I am getting at, was anything said or discussed as to how you were going to accomplish that?

A. No.

(Testimony of Nick DeCarlo.)

Q. Well, after this meeting on Wednesday night was there anything said at that time about what Mr. Huddleson had said on Monday evening?

A. No.

Q. That wasn't mentioned at all? [578]

A. (No answer.)

Q. Did you do picket duty?

A. Yes.

Q. How many men were on the picket line, on an average, usually?

A. Well, there were two shifts, and there were about ten to fifteen men on each shift.

Q. Each shift was a twelve hour shift?

A. Yes.

Q. What did you do during the twelve hours you were there on the picket line?

A. We walked up and down the sidewalk, and we also stopped trucks.

Q. You didn't have any card or banner or sign, or anything of that kind, did you?

A. No.

Q. What did you understand your purpose to be in being there, what were you supposed to do?

A. Well, see that no trucks went in and out of the plant.

Mr. St. Sure: That is all.

Redirect Examination

Q. (By Mr. Edises) You say that you were to see that no trucks went in or out of the plant. Does that mean that if they went in, if they insisted on going in after you had asked them not to, you were

(Testimony of Nick DeCarlo.)

to use force to stop them? [579]

Mr. St. Sure: That is cross-examination of your own witness, as well as leading and suggestive, and I object to it on those grounds.

Mr. Edises: I am willing to redraft the question.

Q. (By Mr. Edises) You say that your job as a picket was to see that no trucks went in or out. Can you elaborate on that? Can you explain just what you mean by that?

A. Well, the trucks that did go in there, why we would stand on the sidewalk and stop them by waiving our hands to them, and if they stopped we would tell them there was a picket line and they weren't to go in; but if they did, we couldn't help it.

Q. What were you supposed to do if they didn't stop?

A. We couldn't do anything about it.

Q. Were you supposed to do anything if they didn't stop?

A. No, we weren't.

Mr. Edises: That is all.

Mr. St. Sure: That is all.

(Witness excused.)

Mr. Edises: Mr. Bedford.

WALTER BEDFORD,

called as a witness for the National Labor Relations Board, being first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Edises) Where do you live, Mr. Bedford? [580]

A. 982-66th Avenue.

Q. When did you first go to work for Santa Cruz?

A. About two years ago.

Q. What was your job?

A. Everything—labeling machine, loading cars, and everything.

Q. Did the various men—were the various men at the warehouse shifted around from one job to another from day to day?

A. Yes sir, they were.

Q. When did you apply for membership in the union?

A. The latter part of July.

Q. When did you get your button?

A. I believe it was on Monday, August 5th.

Q. Were you initiated on Wednesday night?

A. No sir.

Q. Are you now a member of the union?

A. Yes sir.

Q. Did you try to get back to work Thursday morning?

A. Yes sir.

Q. And were you permitted to return? Did you succeed in getting back to work?

A. No sir.

(Testimony of Walter Bedford.)

Q. Were you present when Mr. Huddleson spoke to the men on Monday?

A. Yes sir. [581]

Q. And what time did you knock off on Wednesday?

A. 4:30.

Q. Who told you about the meeting?

A. Bob Anger.

Q. Did he tell you, likewise, that you could get off at 4:30?

A. No sir, he didn't have anything to do with Stokely.

Q. You worked on the Stokely side?

A. Yes.

Q. You were on the Stokely side, working for Stokely?

A. Yes.

Q. How did you happen to get off at 4:30?

A. We finished our work at 4:30.

Q. Will you take your job back if it is offered to you?

A. Yes sir.

Mr. Edises: That is all.

Mr. St. Sure: No questions.

(Witness excused.)

Mr. Edises: Pasqual Arieta.

PASQUAL ARIETA,

called as a witness for the National Labor Relations Board, being first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Edises) Your name is Pasqual Arieta?

A. Yes sir. [582]

Q. Where do you live?

A. 2151-38th Avenue.

Q. Did you work for Santa Cruz or Stokely?

A. Santa Cruz.

Q. When did you go to work for them?

A. July 11, 1934.

Q. When did you apply for membership in the union?

A. The latter part of July.

Q. Are you now a member of the union?

A. I am.

Q. When were you initiated?

A. Wednesday, August 7th.

Q. Were you present on Monday when Mr. Huddleson spoke to the men?

A. I was.

Q. And did you try to go back to work on Thursday?

A. I did.

Q. And were you successful in getting back to work?

A. I wasn't. I got there and the watchman says, "Everybody wearing union buttons can't go to work

(Testimony of Pasqual Arieta.)

this morning." The doors were locked, and the gate locked, and so I couldn't get in.

Q. Was anybody else present when that was said?

A. All the boys around; most of them were around.

Q. Will you take your job back if it is offered to you? [583]

A. I would.

Mr. Edises: That is all.

Cross-Examination

Q. (By Mr. St. Sure) You went to the initiation meeting on Wednesday night?

A. Yes sir.

Q. What do you remember happened there?

A. Well, the boys got initiated.

Q. Yes. What else?

A. The agreement was read.

Q. All right. What else?

A. That is about all I can remember.

Q. Well, who presided at the meeting, who is in charge, apparently?

A. Well, Bob was to represent us as a group.

Q. All right. Who opened the meeting, who said the first formal thing that was said? Did somebody come out and call the meeting to order? Who did?

A. I believe one of the business agents did.

Q. Which one?

A. There were two. I don't remember which. It was Tarling or Woods, one or the other.

(Testimony of Pasqual Arieta.)

Q. After Tarling or Woods called the meeting to order, what happened?

A. Initiated all the boys. [584]

Q. And after that was anything done?

A. That is all that was done. Then Bob read the agreement.

Q. Well, which happened first?

A. I think Bob read the agreement first.

Q. All right. Before he started to read the agreement what did he say? Did he say anything at all as to what he was going to read, or why?

A. Just read the agreement he had in his hand.

Q. Did he tell you what it was?

A. Yes, he read it out.

Q. I mean did he tell you anything about the agreement before he read it? Did he tell you why he was going to read it?

A. He just said, "I will read the agreement to you boys so you will know what it is about."

Q. Up to that time had you ever heard of an agreement before?

A. I heard it mentioned, that the agreement was for better conditions and working place there.

Q. Do you know what those better conditions were that the agreement contained?

A. Shorter hours, about eight hours, so we wouldn't have to work fourteen or fifteen hours a day.

Q. How many hours had you been working, on an average?

(Testimony of Pasqual Arieta.)

A. About fourteen hours a day.

Q. For how long a period of time? [585]

A. Well, let's see—about five or six weeks before the lockout we were working all the time fourteen hours a day.

Q. How long had you been working there?

A. I started to work there July 11, 1934.

Q. All right. When this agreement was read by Bob Anger, after he got through reading it did he say anything, or did anybody else say anything about it?

A. No.

Q. Any questions asked?

A. No, I don't recall any questions asked.

Q. Did anybody make any comment at all as to what they thought about it?

A. All the boys thought it was a pretty good idea, so we wouldn't have to work long hours.

Q. And how long did it take to read the agreement, just your best recollection? I don't want to tie you down to minutes, unless you can do it.

A. Oh, I should say about ten minutes or so.

Q. How long did the initiation take?

A. The initiation took the biggest majority of the time.

Q. Pardon me?

A. The initiation took the biggest majority of the time, I guess.

Q. How long were you there that night?

(Testimony of Pasqual Arieta.)

A. I imagine about an hour and a half, or an hour and forty- [586] five minutes; someplace in there.

Q. Was anything said at all that night about the meeting that you had had with Mr. Huddleson on Monday evening?

A. No, not that I remember of.

Q. Did you talk with anybody, with any of your fellow employes, about what Mr. Huddleson had said to you on Monday night, either talk to them on Monday night or Tuesday or Wednesday?

A. I did not.

Q. Did you think that Mr. Huddleson meant what he said when he said that he couldn't pay the 62½ cents an hour?

A. Well, I didn't know then whether he meant it or not.

Q. After you got to the meeting on Wednesday night do you recall anything being said by Mr. Woods inquiring into whether or not the boys had permission to be there at the meeting?

A. Mr. Woods said, "Everybody go back to work the next morning."

Q. Was Ernie Reich there?

A. He was.

Q. Did Ernie Reich say anything about what Mr. Torenson had said to him, that is, if the men went to the meeting that they needn't bother coming back to work because the jobs would be filled by some one else?

(Testimony of Pasqual Arieta.)

A. No, he didn't say anything of the kind. [587]

Q. Pardon me?

A. He didn't say anything of the kind, that I know of.

Q. Did you hear anything said about the men going back to work that night?

A. I heard the fellows working on the pork and beans, that is, they were supposed to go back to work right after the meeting.

Q. Did you see George Costa there?

A. I believe he was there.

Q. Did you see Clifford Algrava?

A. I believe he was there.

Q. Did you hear them say anything about the fact that Torenson said there wasn't going to be any night shift?

A. No, I didn't hear anything about that.

Q. Did you spend any time on the picket line?

A. About two weeks.

Q. And what were your duties, what were you supposed to do while you were there on the picket line?

A. Any trucks come in, to flag them and tell them there was a picket line there; that is all.

Q. What did you say—did you say anything else to them at all?

A. No.

Q. Did you ask them whether they belonged to a union or not? [588]

A. I did not.

(Testimony of Pasqual Arieta.)

Q. Did any of them go through after you stopped them?

A. Some of them did and some of them didn't.

Q. Do you know whether those that went through were union trucks, or whether they were not?

A. I do not.

Q. You didn't inquire of the truck drivers as to whether they belonged to the union?

A. No. I told them, "There is a picket line here, boys." That is all.

Q. What did you tell them—did you tell them who you were and what union you belonged to?

A. No, I didn't tell them anything like that. I didn't have a chance, because the cops would chase you away every time and you didn't get a chance to talk to them.

Q. Where would you stop these trucks, and how would you do that?

A. On East 14th Street.

Q. How would you stop them?

A. Flag them; stick out your hands, that is all.

Q. Would you get out in front of them?

A. No, I didn't get out in front of them. I just got in the gutter and flagged them.

Q. Did you go out in the street I mean?

A. No, I was in the gutter, foot of the gutter.

[589]

Q. There is only the one street, one way to get in and out of the plant, and that is on 57th Avenue?

(Testimony of Pasqual Arieta.)

A. Yes, 57th Avenue.

Q. Now, I understand you to say that you worked up to the time—up to what you refer to as the lockout, fourteen hours a day?

A. An average, yes. Sometimes maybe would work eight hours, and the next day would be fourteen and a half. But an average of fourteen hours a day for say about four or five weeks before the lockout, something like that. Maybe we would hit a day and would work eight hours, and the next day we would work fourteen.

Q. How about the week just before the meeting? Did you work fourteen hours a day that week?

A. I believe it was. I am not sure, but I think it was. I know we were working long hours. I can't tell you offhand the exact hours, but it was an average of fourteen hours a day. That is five months back and it is hard to remember.

Q. Well, I have got two time cards here for the week just before the initiation meeting. Did you make out more than one time card per day?

A. It all depends. Sometimes we would work for Santa Cruz and we would get through and we would go across to Stokely's, and we would sign two cards instead of one; one for Santa Cruz and one for Stokely. [590]

Q. Did you have as many as three time cards a day?

A. I don't remember.

(Testimony of Pasqual Arieta.)

Q. Your number is 1317, do you remember?

A. I don't remember.

Q. I show you a time card for the 1st of August, which shows ten hours—and what is that—ten and one-half hours?

A. (Examining time card) Right.

Q. And for the 2d there are two cards, one of them dated Pork and Beans, and the other one General Warehouse.

A. (Examining time cards) Yes.

Q. Indicating ten and one half hours, those two combined.

A. Yes.

Q. On the 3d, how much time on that card?

A. That is just the pork and beans. That is 2½ hours, but only for the pork and beans.

Q. Did you work more time on the 3d?

A. I think if you will look it up you will find it. I don't know, but I think so.

Q. There is no other card here for the 3d.

A. Well, I could give you a better record myself. I have got a little book at home that I kept every hour I worked, in.

Q. That might be better. Could you bring that here?

A. I can bring it in later.

Q. Apparently on the 4th you put in a lot of hours, 15½ hours, a combination of three cards. Why the three cards on [591] that day, do you know?

(Testimony of Pasqual Arieta.)

A. I don't know how that was, the three. I can't remember right off hand.

Q. And on the 5th there are two cards. What does that amount to—it says 3¹.

A. It means 3¼ hours.

Q. It would be 6¾ hours on the 5th.

And on the 6th, six hours.

A. That is just pork and beans. That is one card again.

Q. Well, I guess we had better check your record on that, if you will bring in your record.

A. My record don't show the difference between pork and beans. I kept my record in hours I worked.

Q. Total time?

A. Yes. There (indicating) you have the record of one working card, pork and beans, and you haven't the other records.

Q. That is why I say I would like to have your record so we can have a total time. Did you work longer hours than the others did?

A. No, about the same. As I say, toward the end we got three or four good weeks, about fourteen hours a day.

Q. That was a particularly busy season?

A. Yes, the busy season. Sometimes I would start at 6:30 or seven in the morning, and go home about a quarter after [592] ten.

Mr. St. Sure: That is all.

Redirect Examination

Q. (By Mr. Edises) What did Mr. Huddleson say about the union when he spoke to the boys on Monday?

(Testimony of Pasqual Arieta.)

A. He said he didn't want to have any union around his place, as long as he was general manager anyway; that maybe when he was gone, somebody else could have it if they wanted it, but he didn't want it as long as he was general manager there.

Q. Anything else?

A. That is about all I can remember right now.

Mr. Edises: That is all.

Recross Examination

Q. (By Mr. St. Sure) Did he tell you why?

A. He said he couldn't pay 62½ cents an hour.

Q. That is the reason, he told you, he didn't want the union, because he couldn't pay the 62½ cents an hour?

A. I guess so; I guess that is what he meant.

Q. Did he tell you he had no objections to unions as such, and that he had been a member himself once?

A. Yes, I believe he did.

Q. His whole discussion, and the reason he gave as to why he didn't want the union, was because he couldn't pay the amount of the demand while his competitors paid less, isn't [593] that right?

A. I don't know about his competitors paying less, because Del Monte was paying 40 cents and he was paying 35.

Q. Didn't he tell you that as far as he was concerned, there were 50 or more other canners in the state and he wanted to know why you picked on him first?

(Testimony of Pasqual Arieta.)

A. That is what he said, yes.

Q. Didn't he say he would pay what the others paid, if they all paid the scale?

A. I don't remember that.

Q. You don't remember?

A. No.

Mr. St. Sure: That is all.

Mr. Edises: That is all.

(Witness excused.)

Trial Examiner Traynor: We will recess until 2 o'clock.

(Thereupon, at 12:00 o'clock noon, a recess was taken until 2:00 o'clock p. m.)

After Recess

(The hearing was resumed at 2:00 o'clock p. m., pursuant to the taking of recess.)

Trial Examiner Traynor: You may proceed.

Mr. Edises: Mr. Freitas. [594]

FRANK FREITAS,

called as a witness for the National Labor Relations Board, being first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Edises) What is your name?

A. Frank Freitas.

Q. Where do you live?

A. 1233-78th Avenue.

(Testimony of Frank Freitas.)

Q. Are you married?

A. I am.

Q. Any children?

A. One.

Q. How old are you?

A. How old am I?

Q. Yes.

A. Twenty-eight years old.

Q. Did you work for Santa Cruz or Stokely?

A. Santa Cruz.

Q. How long had you been working for them before the lockout?

A. Ten days.

Q. Did you ever work for them before?

A. No.

Q. Who hired you?

A. Ernie Reich. I was over at Packwell. I was working there at the time and he got me to come over and work there with the agreement, no written agreement, but with an agreement from [595] Torenson that I would work during the winter and fall at 40¢ an hour.

Q. In other words, you understood that you were being given steady work?

A. Yes.

Q. And not seasonal?

A. No; otherwise, I wouldn't have left my job.

Q. When did you first hear about the union?

A. The 3d of August.

Q. And under what circumstances?

A. What do you mean?

(Testimony of Frank Freitas.)

Q. How did you happen to hear about it?

A. I was working on a casing machine. I was casing in and Connie Martin was nailing, and he said they were organizing a union there and that if I would like to get in. And I agreed with him.

Q. Did you speak to Mr. Anger?

A. I did; I signed an application with him.

Q. When did you get your union button?

A. I think it was on Tuesday, the 6th.

Q. Were you there on Monday when Mr. Huddleson spoke to the men?

A. I was.

Q. Were you wearing your union button? [596]

A. No, I didn't have any.

Q. What time did you knock off on Wednesday?

A. 4:30.

Q. And how did you come to do that?

A. Bob came around and he told us that he had spoken to Stanley Torenson and Stanley said it was O. K. for us to leave.

Q. Did you go to the meeting that night?

A. I did.

Q. And did you show up the next morning and try to go to work?

A. I did. I was about one of the first ones there.

Q. What did you find when you got there?

A. I drove up in my car and there was a big fat watchman—I don't know his name as I was new on the job—and he told me that. I couldn't park there that morning.

I said, "Why not?"

(Testimony of Frank Freitas.)

He said, "There is going to be some trouble around here and I want to clear it to do some straight shooting."

Q. Will you take your job back if it is offered to you?

A. I will.

Mr. Edises: That is all.

Cross-Examination

Q. (By Mr. St. Sure) You just came to Santa Cruz, you say, ten days before?

A. Yes, ten days before the lockout. [597]

Q. Why did you join the union?

A. Why, for better conditions. You can't live off of 35¢ an hour all your life.

Q. You say you came from the Packwell with the understanding you were to be paid how much at the Santa Cruz?

A. 40¢.

Q. Were you satisfied with that, when you left Packwell to come to Santa Cruz?

A. It is a nickel more; who wouldn't for a nickel more?

Q. I don't know. I think I would if I could get it. But my point is that ten days before the lockout, as you say, you took this new job and then you joined the union four or five days after you had come to Santa Cruz to better your situation, is that it?

A. That is right.

Q. When you talked with Martin about the fact, or he mentioned to you that the union was being or-

(Testimony of Frank Freitas.)

ganized, did he tell you what they were going to try to accomplish, what the union was going to try to do?

A. He said we would get more money and less hours.

Q. Did he tell you what demand was going to be made, or what request was going to be made for more money, how much more was going to be asked for?

A. No, he didn't.

Q. Did he tell you what the union was going to do or how the [598] union was going to accomplish this matter of improving conditions?

A. He said they were organizing a union and if I wanted to get into it.

Q. You went to the initiation meeting on Wednesday night?

A. Yes I did.

Q. And did you hear any discussion about what Mr. Huddleson had said on Monday night?

A. No, I didn't hear anything—Monday night you mean or at the meeting Wednesday?

Q. On Wednesday, at the meeting, did you discuss what had happened on Monday night?

A. No.

Q. Between the Monday night meeting and the next meeting Wednesday night, did you talk to any of the men you were working with about what Mr. Huddleson had said on Monday night?

A. No, I didn't. In fact, I didn't know any of them. The only one I knew was Ernie Reich. I didn't speak much to the men.

(Testimony of Manuel Blanco.)

Mr. St. Sure: I think that is all.

Mr. Edises: That is all.

(Witness excused.)

Mr. Edises: Manuel Blanco.

MANUEL BLANCO,

called as a witness for the National Labor Relations Board, being first duly sworn, testified as follows:

[599]

Direct Examination

Q. (By Mr. Edises) Your name is Manuel Blanco?

A. Blanco, yes.

Q. And where do you live?

A. 596 Estabrook Street, San Leandro.

Q. Are you married?

A. Yes.

Q. Any children?

A. Plenty—four.

Q. When did you go to work for Santa Cruz?

A. I imagine about two and one-half years ago.

Q. Who hired you?

A. Stan Morris.

Q. Stan Morris?

A. Yes.

Q. I thought he was manager for Stokely?

A. He was warehouse boss at that time.

(Testimony of Manuel Blanco.)

Q. What?

A. He was in charge of the Santa Cruz warehouse during that time.

Q. At that time?

A. Yes.

Q. And was he later transferred to Stokely?

A. Yes sir.

Q. And he is now in charge at Stokely? [600]

A. He is.

Q. And what work did you do in the Santa Cruz plant?

A. Running the labeling machine, operator.

Q. What is that?

A. Label machine operator.

Q. Did you do anything else?

A. While there was no labeling, I done everything and anything in general.

Q. You were shifted around from one job to another?

A. Yes.

Q. Did you do any loading into box cars?

A. I did.

Q. And into trucks?

A. I did.

Q. When did you apply for membership in the union?

A. I imagine, I applied, I think it was the 7th month and the 23d day—July 23d.

Q. July 23d?

A. Yes.

Q. And had you ever belonged to a union before?

(Testimony of Manuel Blanco.)

A. Never did.

Q. What was your purpose in applying for membership in the union?

A. Well, for better living conditions, by rights.

Q. You thought that the union would obtain better conditions for you? [601]

A. Well, at least it was going to try to anyway.

Q. Did you expect the union to act as your representative in negotiating with the company for better working conditions?

A. I did.

Q. After the time when you applied for membership in the union did you ever hear any of the boys discussing a strike or walkout?

A. Never did.

Q. Was that matter ever brought up at the union meeting?

A. Never did.

Q. Previous to the time that you joined the union, or applied for membership, had you ever asked Mr. Huddleson or any of the officials of the plant, for a raise in wages?

A. No, I didn't do it, from July 23d to the time of the lockout but I had done it about four or five months ago.

Q. Did you apply by yourself?

A. I did, but I applied to the superintendent.

Q. To the superintendent?

A. Yes.

Q. And during your experience at the Santa Cruz, during the period of your employment at Santa Cruz or Stokely, did you ever know of any

(Testimony of Manuel Blanco.)

organized demand by the men, or by a group of the men, for better working conditions or higher wages?

A. Well, the only time I heard anything was since I signed up my application; before that I didn't hear of anything.

Q. When did you get your union button? [602]

A. I believe I got it on Monday.

Q. August 5?

A. Monday, the 5th, yes.

Q. And were you there Monday, around 6 o'clock, when Mr. Huddleson spoke to the men?

A. I was.

Q. How did you hear about that meeting?

A. Well, we went for supper, and we came back from supper, my gang and I were going back to work with the labeling machine, and we were working on the Stokely side——

Q. (Interrupting) Were you on the day shift?

A. I was on the day shift, yes. So when we were going over to the labeling machine to start work after supper, the boss himself called us back and told us to come back to the regular Santa Cruz warehouse, that Mr. Huddleson wanted to speak to us.

Q. Had Mr. Huddleson ever called the men of the warehouses together before to speak to them for any purpose?

A. Never did.

Q. Now, did he say anything about the union in that speech?

A. Well, he did.

Q. What did he say?

(Testimony of Manuel Blanco.)

A. He said, as far as the union was concerned, it was a bright idea on our part.

Q. Said it was what?

A. A good idea on our part; that he had been a union man [603] for quite a while himself, and as far as our part was concerned we were all right, but as far as his part was concerned that he wouldn't be able to see it as long as he was general manager.

Q. He said he wouldn't be able to see it—just what do you refer to?

A. Well, that he wouldn't, in other words, he wouldn't have the union in his plant at all.

Q. Do you remember anything else that was said in that meeting?

A. Well, yes; quite a few things were said. In fact, there was once when he said that he wouldn't make himself the goat by being the first one to recognize the union at all.

Then there was a party there, one of our boys, who said, "Well, we ought to get started some place and if you start in your plant, if you could sign up, why probably the others will follow in later."

Then he said he would be a fine son of a bitch of a sucker if he would do such a thing as that.

Q. What did he say about wages?

A. Well, he said that the rest of the companies would not pay it so he wouldn't do it himself by no means.

Q. Did he say he knew what the union scale was?

(Testimony of Manuel Blanco.)

A. He did.

Q. Did he say that he was giving you a day or two to think it over? [604]

A. He did say that.

Q. Do you remember just how he said it?

A. Well, I couldn't remember just now. All I know is that he said he would give us a day or so to think it over.

Q. Did he set a particular day by which time you would have to tell him what you had decided on?

A. He never did.

Q. Do you know Mr. Gomez?

A. Well, I wouldn't guarantee that I know him if I would see him. I seen him all right. I don't say I know him. I was in charge of the labeling, that machine, and I had enough of trouble of my own at the time.

Q. Did you go to the meeting Wednesday night?

A. I did.

Q. Who told you about the meeting?

A. Bob Anger.

Q. And when did he tell you about it?

A. I wouldn't say just what time. He told me in the morning though; it was before noon when he told me about it.

Q. Did he say anything about having gotten permission to leave?

A. He did. I told him, "How do you know that we are going to shut up at 4:30 when we work later other days?"

(Testimony of Manuel Blanco.)

He said he had spoken to Mr. Torenson and Mr. Torenson thanked him very much for letting him know ahead of time. [605]

Q. You went to the meeting that night?

A. I did.

Q. What was the purpose of the meeting?

A. Well, to have us initiated by rights.

Q. And was anything said about the negotiations with Santa Cruz?

A. Well, all I heard was that one of our business agents had gone to see Mr. Huddleson personally.

Q. Did you hear that at the meeting or when did you hear that?

A. Well, I heard that the same day, but not at the meeting, though.

Q. Who told you about that?

A. Well, I think it was Bob Anger, the one that told me that.

Q. Bob Anger?

A. Yes.

Q. Did he tell you anything else at the time?

A. No, not that I remember.

Q. What was done at the meeting Wednesday night?

A. They read us the agreement.

Q. Do you remember who read the agreement?

A. By gosh, I don't; I just couldn't say.

Q. What else was done? You had the initiation, didn't you?

A. We did. [606]

Q. Did some of the union officers make speeches?

(Testimony of Manuel Blanco.)

A. Well, I think there was one who made a little speech, Tarling.

Q. And did Mr. Woods speak?

A. I don't remember if he did or not.

Q. Were you paying very close attention to what was going on?

A. I tell you I wasn't paying so much attention at all, because it was the first time I joined the union, you might say, and I didn't know much about it so I didn't pay much attention.

Q. You didn't pay much attention about what was going on, is that it?

A. That is it.

Q. Had you been told, or had you learned in any way, or did you have any idea that you would not be permitted to return to work the next day?

A. No sir.

Q. Did you show up for work the following morning?

A. I did.

Q. Did you try to get in?

A. I did.

Q. Did you succeed?

A. No, never did. In fact, as I was going in the warehouse door, where always I was going in for the last two and one- [607] half years, somebody hollered—I don't know who it was—and said, "There is no use you trying to get in; there is no way of getting in."

Q. Do you know who is running the warehouses now?

A. I couldn't say.

(Testimony of Manuel Blanco.)

Q. Would you take your job back if it is offered to you?

A. I will.

Mr. Edises: No further question.

Cross-Examination.

Q. (By Mr. St. Sure) You say you didn't have any idea that you might not be allowed to return to work. After Mr. Huddleson talked to the men on Monday night did you think that he meant what he said when he said he couldn't pay the 62½¢ an hour?

A. Well, no, I didn't really think he meant it so strongly as he did.

Q. Didn't he say that if the men weren't satisfied with what he was paying, and was able to pay, that he would have a contractor to come in; that he had a contractor who said he could do it for less —did he tell you that?

A. I heard him mention about a contractor, all right.

Q. What rate were you paid there?

A. Forty cents an hour.

Mr. St. Sure: I think that is all. [608]

Redirect Examination.

Q. (By Mr. Edises) At that meeting when Mr. Huddleson spoke to you and the other men—withdraw that question——

Mr. Edises: I have no further questions.

Trial Examiner Traynor: That is all.

(Witness excused.)

Mr. Edises: Mr. Gardner.

ORVILLE GARDNER,

called as a witness for the National Labor Relations Board, after being first duly sworn, testified as follows:

Direct Examination.

Q. (By Mr. Edises) Your name is Orville Gardner?

A. Yes sir.

Q. And you are the person designated in the complaint as Orville Gordon?

A. Yes.

Mr. Edises: With the Examiner's permission, I would like to suggest an amendment to conform to the proof of the spelling of this man's name, G-a-r-d-n-e-r, in the various places in the complaint where it is referred to as Orville Gordon.

May that be done?

Mr. St. Sure: Yes, whenever the name "Gordon" appears in the complaint, or the answer, it may be understood to refer to "Gardner." [609]

Trial Examiner Traynor: So understood.

Q. (By Mr. Edises) Where do you live?

A. 1458—56th Avenue.

Q. Oakland?

A. Yes.

Q. Are you married?

A. Yes sir.

Q. Any children?

A. No.

Q. Did you work for Santa Cruz or Stokely?

A. Santa Cruz.

(Testimony of Orville Gardner.)

Q. When did you go to work for them?

A. About three years ago.

Q. What was your job?

A. Stitching cases.

Q. What else?

A. And driving an electric truck.

Q. Did you do any loading?

A. No.

Q. You never did any loading?

A. No.

Q. What kind of work did you do with the electric truck?

A. I hauled pork and beans from the Santa Cruz warehouse over to the Stokely warehouse.

Q. What was done to them then at Stokely's?

[610]

A. Stacked in piles.

Q. Stacked and subsequently loaded, is that correct?

A. Yes.

Q. When did you apply for membership in the union?

A. The latter part of July.

Q. Through Mr. Anger?

A. Yes sir.

Q. When did you get your button?

A. It was on Tuesday morning.

Q. Tuesday morning?

A. Yes sir.

Q. Were you there Monday when Mr. Huddleson spoke to the men?

(Testimony of Orville Gardner.)

A. I was.

Q. Were you at the meeting Wednesday night?

A. Yes sir.

Q. Who told you about the meeting?

A. Mr. Anger.

Q. And what did he tell you?

A. He told me to be sure to be at the meeting that night.

Q. Well, hadn't you been working nights?

A. I had.

Q. Well, how did it happen—did he say anything about how come you were to get off at 4:30?

A. I was working nights. I didn't have to get off. I [611] didn't come to work until 6 o'clock.

Q. Pardon me, I understood you were working days. Can you tell us exactly what was said when Mr. Anger told you about the meeting?

A. He told me to be sure to be at the meeting that night; that is all.

Q. Did you attend the meeting?

A. I did.

Q. And when did you show up to go to work again?

A. Well, I had Wednesday night off. I had asked for permission to have that night off.

Q. So that you were not at the plant the following morning when the other men were?

A. No. I didn't go to work until Thursday evening. When I went down to work I ran into the picket line and the boys told me what had happened, so I didn't go on down.

(Testimony of Orville Gardner.)

Q. Will you take your job back if it is offered to you?

A. I would.

Mr. Edises: That is all.

Cross-Examination.

Q. (By Mr. St. Sure) When you went back Thursday evening, as I understand it, you got as far as the picket line and then you didn't go any farther, didn't go down to the plant at all?

A. That is right. [612]

Q. You say you had permission to be away Wednesday evening. Who did you receive that permission from?

A. Mr. Torenson.

Q. Did you ever ask Mr. Torenson about whether or not your job was there waiting for you, whether you could go back to it?

A. I never seen him since.

Mr. St. Sure: That is all.

Redirect Examination

Q. (By Mr. Edises) When did you get permission from Mr. Torenson?

A. Got it Tuesday morning.

Q. What was your reason for asking to get off Wednesday night?

A. Well, there wasn't much to do that night, as far as the electric truck was concerned, so I asked for that night off.

(Testimony of Orville Gardner.)

Q. Did that have anything to do with the union meeting?

A. No sir.

Mr. Edises: That is all.

Mr. St. Sure: No further questions.

(Witness excused)

Mr. Edises: Mr. Venturi.

FRED VENTURI,

called as a witness for the National [613] Labor Relations Board, being first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Edises) Where do you live?

A. 1630-61st Avenue.

Q. Are you married?

A. Yes.

Q. Any children?

A. One.

Q. How old?

A. Two years old.

Q. Do you work for the Santa Cruz or Stokely?

A. I work for Stokely most of the time, but at the time of the lockout I was working for Santa Cruz.

Q. How did you happen to be transferred from Stokely to Santa Cruz?

A. They were pretty busy over there and needed men on the labeling machines.

(Testimony of Fred Venturi.)

Q. Who told you to go over?

A. Ernie Reich.

Q. Ernie Reich was not the manager of the Stokely plant, was he?

A. He was an assistant warehouse foreman.

Q. That was at the Santa Cruz plant, was it not?

A. Yes. [614]

Q. Well, did he have authority over Stokely men as well?

A. No, but the foremen got together and they used to help each other out with the men.

Q. What was your job at Stokely?

A. I worked the labeling machine most of the time, but I used to load cars, stack cases—and do everything from sweeping the floor to polishing the boss' shoes.

Q. What was your usual quitting time?

A. We had no regular quitting time.

Q. What time did you quit on Wednesday, August 7?

A. 4:30.

Q. And how did you happen to do that?

A. Bob Anger told us we had permission to leave at 4:30 from Stan Torenson.

Q. There has been testimony by previous witnesses at the Stokely warehouse that the reason that they knocked off at 4:30 was because the work was finished at that time.

A. I was in the Santa Cruz.

(Testimony of Fred Venturi.)

Mr. St. Sure: He was in Santa Cruz.

Mr. Edises: Pardon me.

Q. (By Mr. Edises) When did you apply for membership in the union?

A. In the latter part of July; I don't remember what date.

Q. When did you receive your button?

A. I believe it was on Monday. [615]

Q. What wages were you getting?

A. Thirty-five cents an hour.

Q. And how many hours were you working?

A. Anywhere from 8 to 16. I have worked as high as 23 hours in one day.

Q. Was that during the busy season?

A. Yes.

Q. During the summer of 1935?

A. During 1935, yes.

Q. Were you there on Monday when Mr. Huddleson spoke to the boys?

A. Yes I was.

Q. And were you present Wednesday night at the initiation meeting?

A. I was.

Q. Did you show up Thursday morning to go back to work?

A. Yes I did at 6:30 in the morning. I drove down there and the watchman told me I couldn't park my car there. I asked why and he said, "There will probably be some shooting going on around here."

(Testimony of Fred Venturi.)

So I took my car out of there.

Q. Would you like to have your job back?

A. I would.

Q. Would you take it if it were offered to you?

A. I would. [616]

Mr. Edises: That is all.

Cross Examination

Q. (By Mr. St. Sure) Have you, since the 8th of August or since the night of the initiation, inquired of the foreman, or of any one else in connection with either Stokely or Santa Cruz, whether you could have your job back?

A. No, I haven't seen any of them.

Q. What do you recall was said by Huddleson on this Monday evening?

A. He said he wouldn't recognize any union in his plant; that he wouldn't be the first one to recognize the union.

Q. Did he give any reason for that?

A. Well, he said he couldn't afford to pay that wage, union wage scale. I don't remember what else he said.

Q. Did he say anything about the matter of competition, what other canneries were paying, whether that had anything to do with it or not?

A. Yes, he did mention something about that, that the other canneries weren't paying any more than he was—but I think most of them were.

Mr. St. Sure: I will ask that that last go out as a conclusion.

(Testimony of Fred Venturi.)

Mr. Edises: That may go out, as far as I am concerned.

Q. (By Mr. St. Sure). Did he mention anything about having a contractor who said he could do the work for less than you [617] were doing it come in?

A. Yes, he said if we thought we could get a better job to get out of there and he would bring a contractor in to do the work we were doing.

Q. Did he say anything about your thinking it over or talking it over and letting him know what you wanted to do about it?

A. Yes, he mentioned for us to think it over and either stay with the union or stay with him.

Q. Do you think he meant that?

A. Well, I found out Thursday morning that he did, yes.

Q. Up to that time you thought he was just fooling?

A. No, I didn't exactly think he was fooling but I gathered he didn't want to pay more than 35¢ an hour.

Q. Some of the men, in fact, were being paid more than 35¢ an hour in the warehouse?

A. About two or three that I know of.

Q. Some were being paid 45¢?

A. None that I know of.

Q. Now, at the meeting on Wednesday night—withdraw that—I gather that Mr. Huddleson on Monday evening was rather forceful in his remarks,

(Testimony of Fred Venturi.)

was he? He didn't mince words about what he had in mind and about what his views were?

A. He spoke rather stern all right, yes.

Q. And your impression, at least, was that he was, or had rather set opinions in the matter he was talking about? [618]

A. The impression I got was that if we weren't satisfied with 35¢ an hour and the working conditions we were working under; we could quit; that is the impression I got.

Q. And then when you went to the union meeting on Wednesday night was anything said at all by any of the men there about what might follow from your going on with the union membership?

A. No.

Q. Was anything said at all about what Mr. Huddleson said to you about his not being able to pay more than he had paid or was paying?

A. No.

Q. You don't recall a discussion of that at the union meeting?

A. No.

Mr. St. Sure: I think that is all.

Redirect Examination

Q. (By Mr. Edises) These two or three men that you refer to as receiving more than 35¢ an hour, what were they getting.

A. They were getting 40¢, I think. I wouldn't say for sure, but I think it was 40¢.

(Testimony of Fred Venturi.)

Mr. St. Sure: The time cards show the rate. They are all here and can be referred to.

Mr. Edises: That is all.

(Witness excused)

Mr. Edises: May we have a 3 minute recess? [619]

Mr. St. Sure: Make it 5 minutes.

Trial Examiner Traynor: We will take a 5 minute recess.

(At this point a recess was taken after which proceedings were resumed as follows:)

Mr. Edises: In view of the unavailability of certain witnesses, who had been requested and instructed to be here this afternoon, I wish at this time to propose an adjournment until the next session of this body.

Our previous practice has been to hold a Saturday morning session, but in view of the necessity of serving a subpoena, which must be prepared during the interval, and in view of Mr. St. Sure expressing a desire to have it continued until Monday, I should like to make a formal motion that the hearing be adjourned until Monday morning at 10 o'clock.

Trial Examiner Traynor: Motion granted. Hearing adjourned until 10 o'clock Monday morning.

(Thereupon, at 2:50 o'clock p. m., the hearing in the above entitled cause was adjourned until 10 o'clock a. m. Monday, January 6, 1936. [620]

Board of Supervisors' Room
Hall of Records
Alameda County
Oakland, California

Monday, January 6, 1936.

Met, pursuant to adjournment, at 10:10 o'clock a. m.

PROCEEDINGS

Trial Examiner Traynor: You may proceed.

Mr. Edises: Mr. Toresen, take the stand.

KENNETH TORESEN,

called as a witness for the National Labor Relations Board, being first duly sworn, testified as follows: [621]

Direct Examination

Q. (By Mr. Edises) What is your name?

A. Kenneth Toresen.

Q. How do you spell your last name?

A. T-o-r-e-s-e-n.

Q. T-o-r-e-s-e-n.

A. Yes sir.

Q. Are you married?

A. No.

Q. Did you work for Santa Cruz or Stokely?

A. Santa Cruz.

Q. When did you go to work there?

A. About two and one-half years ago.

Q. And what was the nature of your work?

(Testimony of Kenneth Toresen.)

A. Well, I did a little of everything; worked on the label machines and helped the printer.

Q. Did you do loading?

A. Once in awhile.

Q. Did you change around from one job in the warehouse to another?

A. Yes.

Q. When did you apply for membership in the union?

A. I cannot think of the date.

Q. Was it sometime prior to the lockout?

A. Yes sir. [622]

Q. And were you present on Monday, around 6 or 6:30 p. m., on August 5 when Mr. Huddleson spoke to a group of the men?

A. Yes sir.

Q. And how did you learn about the meeting.

A. Well, I came back after supper there and the boss, Stan, said there was going to be a meeting, that he wanted to talk to us; so we waited around there.

Q. Were you wearing your union button at the meeting?

A. I was.

Q. Do you remember what Mr. Huddleson said about the union at that time?

A. I can't remember much of what he said. I understand he wouldn't have nothing to do with the union; that if we wanted to join the union we were just through.

(Testimony of Kenneth Toresen.)

Q. That is the general substance of his speech?

A. That is the way I got it, yes.

Q. Do you remember his saying anything about thinking it over?

A. Yes, he said he would give us a couple of days to think it over.

Q. What did he want you to think over?

A. If we wanted to join the union or stay in the cannery.

Q. Did he give you any specific day by which you had to make up your minds? [623]

A. No; he just said a couple of days.

Q. Did you go to the initiation meeting on Wednesday night, August 7th?

A. I did.

Q. How did you learn about the meeting?

A. Well, from Bob Elder.

Q. You mean Anger?

A. Anger, yes; he told me about 11 o'clock that he had permission to get off.

Q. Were you on the day shift?

A. Yes.

Q. You say that he had permission to get off. Did he say from whom he had obtained permission?

A. He said it was from the boss.

Q. From the boss?

A. Yes sir.

Q. The Boss is Stan Toresen, is it not?

A. Yes sir.

(Testimony of Kenneth Toresen.)

Q. Are you related to him?

A. I am.

Q. What is your relationship?

A. Brother.

Q. Do you live at the same place he does?

A. No, I don't.

Q. Did you at the time of the lockout or prior to it? [624]

A. No.

Q. Have you ever spoken to your brother, Stan, about the lockout?

A. No, we never talk about it when he comes over to the house.

Q. You say you never talk about it when he comes over to the house?

A. No.

Q. Do you know Manuel Gomez?

A. I do when I see him.

Q. Did you see him around the Santa Cruz plant at any time prior to the lockout?

A. Yes sir.

Q. When was that?

A. I saw him Monday, Tuesday and Wednesday that week.

Q. Did you have any conversation with him on any of those occasions?

A. No, I didn't.

Q. What did you see him doing?

A. Saw him walking around a couple of days, and saw him over by the labeling machine.

Q. Did your brother ever tell you anything about Gomez?

(Testimony of Kenneth Toresen.)

A. No.

Q. Did you ever ask him anything about him?

A. No. [625]

Q. Had you ever seen Gomez around the plant prior to Monday, August 5th?

A. I am not sure if I did or not.

Q. Did you do picket duty?

A. Yes.

Q. Did you ever commit any act of violence?

A. No.

Q. Did you flag trucks?

A. Yes.

Q. Did you ever threaten any truck drivers?

A. No.

Q. If the Board orders your reinstatement will you take your job back?

A. I will.

Mr. Edises: That is all.

Cross-Examination.

Q. (By Mr. St. Sure) At this meeting on Monday night did Mr. Huddleson say anything about the wage that was being demanded?

A. Yes.

Q. What did he say about that?

A. He said he couldn't afford to pay it.

Q. Did he say why he couldn't?

A. He just said he would be out of the cannery business if he had to pay it. [626]

Q. Did he mention the fact that there were some fifty other canneries in the state, and did he ask why you picked on him first?

(Testimony of Kenneth Toresen.)

A. Yes.

Q. Did he say anything about having a contractor to come in and take the work over for less money if you insisted on the demands for 62½¢?

A. I don't remember him saying that.

Q. Did he say something about, if you insisted on that wage demand, that you could go out one door and he would have a contractor come in the other?

A. Yes.

Q. Did you think he meant it?

A. I don't know if he did or not; I guess he must have.

Q. What were your duties supposed to be as a picket?

A. Just walk up and down there to try to stop trucks.

Q. What happened at the meeting on Wednesday night? Just tell, if you can, what happened there, if you remember?

A. We got initiated.

Q. Well, when you went in the meeting did anything happen before the initiation, or was there any discussion or anything of that kind?

A. Not that I remember. I can't remember any.

Q. Did you know that before the initiation meeting, on Wednesday night, a form of contract had been sent to the manage- [627] ment of the Santa Cruz plant?

A. I don't know. That was up to our spokesman.

(Testimony of Kenneth Toresen.)

Q. Who was your spokesman?

A. Bob Anger.

Q. Did you know that a contract was to be sent to the management of the Santa Cruz plant on behalf of the union?

A. I knew about it; I heard about it at the initiation meeting.

Q. Before that time you hadn't heard about it, is that right?

A. Not that I can remember.

Q. Do you know what was in that contract?

A. All I know is that we were supposed to get 62½¢ an hour and shorter hours; 8 hours a day.

Q. Did you ever hear it read?

A. I heard it read but I can't remember much of it.

Q. Pardon me?

A. I can't remember much about it.

Q. When did you first hear it read?

A. I heard it read at the initiation meeting.

Q. Do you know who read it?

A. I think Bob Anger did.

Q. Was there any discussion about it as to its terms, or whether it would be accepted, or what would happen if it were? [628]

A. No.

Q. Did anybody say anything at all about that?

A. Not that I can remember.

Q. At the meeting on Wednesday night was anything said at all about the Monday night meet-

(Testimony of Kenneth Toresen.)

ing, as to what Mr. Huddleson had said or whether he meant what he had said?

A. Not that I remember.

Mr. St. Sure: I think that is all.

Mr. Edises: That is all.

(Witness excused.)

Mr. Edises: August Sannebeck.

AUGUST SANNEBECK,

called as a witness for the National Labor Relations Board, being first duly sworn, testified as follows:

Direct Examination.

Q. (By Mr. Edises) What is your address, Mr. Sannebeck?

A. 7123 Holly.

Q. Are you married?

A. No sir.

Q. Did you work for Santa Cruz or Stokely?

A. I worked for Santa Cruz.

Q. When did you go to work for them?

A. Sometime the first of March.

Q. Of 1935? [629]

A. 1935, yes.

Q. When did you apply for membership in the union?

A. I couldn't say for sure on that. It was about——

Q. (Interrupting) Was it about the same time most of the other men did?

(Testimony of August Sannebeck.)

A. Yes.

Q. Around the middle of July, 1935?

A. About the same time as the rest of them.

Q. What was the nature of your work at Santa Cruz?

A. Well, most of it was all-around work in the warehouse. I worked on the label machine and everything.

Q. Did you load cars and trucks?

A. Yes sir, I did.

Q. And were you moved about from one job to another at various times of the day and from day to day?

A. Yes sir, I was. I worked on the night crew quite a bit.

Q. You were on the night crew?

A. Yes.

Q. Were you working on the night crew just prior to the lockout?

A. Yes sir, I was.

Q. Did you go to the initiation meeting Wednesday night?

A. I did, yes.

Q. Who told you about the meeting?

A. Bob—what is his name? [630]

Q. Anger?

A. Yes sir.

Q. When did he tell you about the meeting?

A. Nothing; he just told me there was going to be an initiation meeting.

(Testimony of August Sannebeck.)

Q. I say when did he tell you?

A. When did he tell me?

Q. Yes.

A. Well—— (pause)

Q. Were you with Mr. Pio and Mr. Doyle when he told you about the meeting?

A. I know I was with Mr. Doyle.

Q. Was that just as you were getting off shift Wednesday morning?

A. Yes sir, I believe it was.

Q. And will you state now just what Mr. Anger told you?

A. I couldn't state it right out. He says that there was a meeting that night at the hall.

Q. Did he tell you the time?

A. I think he said 7 o'clock; I am not sure.

Q. Did you go to the meeting?

A. Yes sir.

Q. You didn't go at 7 o'clock, did you?

A. Yes sir, I did.

Q. Seven o'clock? [631]

A. Yes.

Q. Did you speak to Mr. Toresen before leaving the plant Wednesday morning in regard to the meeting that night?

A. Well, no sir. That night, when we came on that night Mr. Toresen told us that we could go to the meeting and then come back and go to work.

Q. Well, when did he tell you that?

A. That was just after Mr.——

Q. (Interrupting) Anger?

(Testimony of August Sannebeck.)

A. (Continuing) ——Huddleson's talk.

Q. Now, have you been to any of these sessions before in which the men have testified?

A. No.

Q. Do you remember those dates very distinctly? Mr. Pio and Mr. Doyle and the rest of the men, have testified that they spoke to Mr. Anger, rather, yes, to Mr. Anger, on Wednesday morning as they were getting off shift, that they spoke to Mr. Toresen shortly after that on Wednesday morning. You state that you spoke to Mr. Toresen about getting off on Monday night. Do you know at which time you did speak to him?

A. (Pause)

Q. Or can't you remember definitely?

A. No. It was at the same time that Mr. Doyle talked to him anyway. [632]

Q. And was that the morning of the initiation meeting?

A. Well, that was—anyway, it was the morning of Mr. Huddleson's talk, or the initiation meeting. I have got that mixed up there.

Q. Is your recollection of those events rather confused?

A. Yes, it is quite confused.

Q. Do you remember what Mr. Toresen said to you when you spoke to him about getting off?

A. Well, he said for us to go to the meeting and then come back and go to work.

Q. And did you come back and go to work after the meeting?

A. Yes sir.

(Testimony of August Sannebeck.)

Q. Do you remember about what time that was?

A. I should judge around 8:30; some place in there. I don't know for sure.

Q. Now, will you tell us just what happened when you showed up for work that night after the meeting?

A. We came up 57th Avenue and parked the car, and when we parked the car we started to go toward the door and two fellows came down the street. It looked like, it could have been a tear gas gun or a shot gun—I don't know for sure—that they had in their hands and they yelled to us and they says, "Where are you going?"

At that time we knocked at the door and the light shown on our face and they said, "O. K. these two fellows." [633]

And then Mr. Gomez opened the door and we asked for Mr. Toresen. He says Mr. Toresen wasn't around then.

Just at that minute Mr. Toresen showed up and he says, "I told some fellows to tell you down at the meeting you needn't come back to work."

And so we says, "O. K.," and jumped in the car and went home.

Q. Didn't you say anything to Toresen about his having told you previously to come back after the meeting?

A. Yes, we said, "You told us to come back."

He said, "Well, I told some fellows to tell you at the meeting not to come back to work."

Q. Did he say why he changed his mind, or his action?

(Testimony of August Sannebeck.)

A. No. That is all that was said.

Q. Did you show up the following morning at the plant?

A. The following morning?

Q. Yes.

A. Yes.

Q. What time?

A. I don't know for sure.

Q. Did you try to get in?

A. No I didn't.

Q. Why not?

A. I knew there was no use.

Q. Did you see the pickets there? [634]

A. Yes sir.

Q. Did you see the watchmen?

A. No.

Q. If the Board orders you reinstated would you accept your job back?

A. Yes sir.

Mr. Edises: That is all.

Cross-Examination.

Q. (By Mr. St. Sure) Did you go to the plant before the initiation meeting that night, that is, before you went to the initiation meeting?

A. Yes sir, I went to work.

Q. What time did you go to work that night, Wednesday night?

A. Six o'clock.

Q. What?

A. Six o'clock.

(Testimony of August Sannebeck.)

Q. And what time did you leave there?

A. To go to the meeting?

Q. Yes.

A. I couldn't say for sure. I don't know.

Q. You say you got to the meeting at 7 o'clock?

A. I said I thought that was the time.

Q. Have you any recollection of how long you worked that night? [635]

A. No sir, I haven't.

Q. You are sure you worked that night before the initiation meeting?

A. Yes sir.

Q. Who else worked there with you?

A. I don't know all their names.

Q. Well,——

A. (Interrupting) Mr. Doyle worked with me.

Q. Do you remember that he worked there that night?

A. Yes.

Q. How about Clifford Algrava, did he work there that night before the meeting?

A. I couldn't say.

Q. How about Costa, did he work there?

A. I don't believe I know him.

Q. What particular job were you doing on the night shift?

A. Well, then I was trucking and casing in. I was doing all jobs at night.

Q. Did you see Ernie Reich there that night before the meeting?

A. Yes sir.

(Testimony of August Sannebeck.)

Q. Did he work that night before the meeting?

A. I don't know.

Q. Pardon me?

A. I don't know. [636]

Q. Well, was the full crew, as far as you can remember, working there before the meeting that night?

A. Well, I saw quite a few of them around there.

Q. At any rate, you weren't the only one working that night before the meeting?

A. Before the meeting down at the hall?

Q. Yes.

A. No, not that I can recollect.

Q. As far as you can recall, all the rest of them that normally worked there at nights were working there just as you were?

A. On our special crew, yes.

Q. Who was on your special crew?

A. Well, as I say, I don't know them all.

Q. Who were some of them?

A. There was Mr. Doyle and Al—I don't know Al's last name.

Mr. Edises: Pio?

Q. (By Mr. St. Sure) Pio?

A. I don't know if that is his name or not.

Q. You don't recall how long you worked there that night in any event?

A. No.

Q. When you left did you see anybody when you were leaving?

A. Not that I could see. [637]

(Testimony of August Sannebeck.)

Q. Did you see Mr. Toresen?

A. Not as I was leaving, no sir.

Q. You say Toreson told you you could go to the meeting and then come back to work. When, do you remember, his telling you that?

A. As I remember, he told me that night that we went to the meeting.

Q. That same Wednesday night?

A. Well, it was the night—what night would that be, let's see—it was the same night that we came back from the initiation meeting to the cannery. That would be Wednesday.

Q. Do you remember who was there when he told you that, if any one was there?

A. No, I don't.

Q. Did you see Ernie Reich at the meeting Wednesday night, at the initiation meeting?

A. I don't know if he was or not.

Q. Do you remember Ernie Reich, or any one else there at the initiation meeting, saying that Toresen had told him that evening that all the men that went to he meeting needn't come back to work?

A. No sir.

Q. Well, when you went back after the meeting you saw Toresen, and he said that the job was gone, or something of that kind? What did he say to you? [638]

A. He said that he sent somebody down to the meeting to tell us that we needn't come back to work.

(Testimony of August Sannebeck.)

Q. What did you understand, that you had no more job?

A. Yes, that is as I understood it.

Q. And how did you happen to go back the next morning?

A. Well, I was just coming back to see the fellows; that is all.

Q. What time did you get down there the next morning?

A. I couldn't say.

Q. Do you remember what happened at this meeting on Wednesday night?

A. What meeting is that?

Mr. Edises: The initiation meeting.

Q. (By Mr. St. Sure) Well,——

A. The initiation meeting?

Q. Yes.

A. Nothing that I can remember, only that they were initiated.

Q. How long did the meeting last?

A. I should say an hour or so; I don't recall.

Q. Apart from the actual initiation which, I assume, was the taking of oaths and things of that kind, did anybody do any talking except the people who took part in the initiation?

A. Yes sir, there was some talk.

Q. Well, what was the talk about? What did they say? Do [639] you remember anything about what took place there, except the initiation itself?

A. Not very much, no sir.

(Testimony of August Sannebeck.)

Q. Well, was any business transacted at that meeting that you can recollect?

A. They were to go out and see Mr. Huddleson, to see what could be done.

Q. Who was going out to see Mr. Huddleson?

A. The union.

Q. Well, who do you mean by the union, individually what men?

A. I don't know.

Q. Who said that they, somebody representing the union, was going to see Mr. Huddleson?

A. I don't know who he was that said it either.

Q. Well, how did that happen to come up for discussion? What brought that up and what was said about it?

A. Well, I don't know; everybody was talking down there.

Q. What were they talking about? Talking about the fact that on Monday night Mr. Huddleson had said he couldn't pay the wage that was demanded?

A. I don't know.

Q. Pardon me?

A. I don't know; I don't remember any of it.

Q. There was discussion there that night at the meeting, [640] wasn't there, about the probability of trouble there at the Santa Cruz? I mean you had heard Mr. Huddleson talk to the men on Monday night and he told you such things—by the way, what do you recall he said at that Monday night meeting?

A. Well, the only thing that I can recall, as I got

(Testimony of August Sannebeck.)

his talk, was that if we stayed with the union we were out, and if we dropped the union we could have our jobs.

Q. And he told you why he took that view was because he couldn't pay the 62½¢ an hour, in view of his competition?

A. Yes sir.

Q. He told you that if you insisted upon that rate of pay, he would have to get someone else to do the work?

A. Yes sir.

Q. And you believed that he meant that when you heard him say that?

A. Yes sir.

Q. You had this on your minds when you went to the meeting on Wednesday night?

A. Yes sir.

Q. Didn't you discuss with the others there what might happen in the future if you went through with this agreement or demand that had been sent to Mr. Huddleson?

A. They all discussed it.

Q. They all discussed this at the meeting Wednesday night? [641]

A. No, it was all discussed before then.

Q. When was it discussed?

A. I don't know—among ourselves.

Q. Well, what did you talk about, as to whether you would go to see Mr. Huddleson personally or whether you would go ahead with the union membership and the contract—what did you talk about?

(Testimony of August Sannebeck.)

A. I don't know. We just discussed everything.

Q. On Monday Mr. Huddleson asked you to think it over and talk to him about it, didn't he, after you had made up your minds?

A. Yes sir.

Q. Did you talk about whether you would do that or not, or what you would do?

A. No.

Q. Pardon me?

A. We did, yes.

Q. Did you reach any conclusion as a group, those of you who were working there, as to what you would do?

A. I don't get you.

Q. Well, after you talked it over, did you make up your minds as to what you were going to do? Did you decide upon any particular thing that you would do, whether you would send somebody to see Mr. Huddleson, or whether you would withdraw the demand for 62½¢ an hour, or what you would do? Did you [642] make any decision at all?

A. I wasn't in on all that.

Q. Were you in on any of it?

A. Not much, no.

Q. Well, now, this contract—you knew there was a contract that had been sent to Mr. Huddleson, didn't you?

A. Yes sir.

Q. When did you learn about that?

A. Oh, just from—I don't know when I first heard about it.

(Testimony of August Sannebeck.)

Q. Well, was it before you were initiated, or after you were initiated that you heard about it?

A. Before.

Q. And did you know what that contract was all about at that time?

A. I don't know that. I knew how much the wages were.

Q. What about the hours?

A. And hours, yes sir.

Q. What were the hours to be?

A. Eight hours a day.

Q. How many hours a week?

A. I don't know—I imagine 48 hours a week.

Q. Well, did you see a copy of that contract at any time?

A. No sir.

Q. Did anybody tell you in detail what it said, what it [463] was supposed to be about?

A. No sir.

Q. At any time?

A. No sir.

Q. Up to this time has anybody ever told you what this contract was about?

A. No.

Q. You were at the meeting on Wednesday night?

A. Yes.

Q. You didn't hear the contract read there?

A. I don't know if it was or not. I must have been in a fog.

Q. Did you do picket duty?

(Testimony of August Sannebeck.)

A. Yes sir.

Q. What were your duties as a picket, what were you supposed to do?

A. All I did was walk up and down East 14th Street.

Q. Just walk up and down?

A. Yes sir.

Q. Did you wave at any truck drivers as they went by and suggested they stop?

A. Yes sir.

Q. Did they stop?

A. Yes sir.

Q. What did you say to them after they stopped?

A. I just said there was a strike on here. [644]

Q. Yes. What did you ask them to do, anything at all?

A. No sir.

Q. What did they do, anything?

A. Turned around.

Q. All of them?

A. I don't know. I didn't stop many.

Q. All you stopped?

A. Most of them, yes.

Q. They all turned around and went back?

A. Yes sir.

Q. When you stopped them did you ask them whether or not they belonged to any union?

A. No.

Q. When you went back to the plant the morning after the initiation meeting did you try to see

(Testimony of August Sannebeck.)

any of these people connected with the management there to find about your job?

A. Well, I went back with all the fellows.

Q. You mean you didn't yourself try to talk to anybody, Toresen, Mr. Huddleson or anybody else?

A. No sir.

Q. When did you first meet Mr. Woods? Do you know who Woods is?

A. Yes sir.

Q. What is his position?

A. He is connected with the union. [645]

Q. When did you first meet him?

A. I don't know the day.

Q. Before the initiation meeting or afterward?

A. Afterward.

Mr. St. Sure: I think that is all.

Redirect Examination

Q. (By Mr. Edises) Now, when you joined the union what did you expect the union to do for you, Mr. Sannebeck?

A. Well, I expected it to get more money and better working hours.

Q. In other words, you expected the union would negotiate with the company and try to bring about these improved conditions?

A. Yes sir.

Q. And were you satisfied to let the representatives of the union handle these negotiations?

A. Yes sir.

Q. And when you showed up the following morning, Thursday morning, after the lockout, what

(Testimony of August Sannebeck.)

was your reason for not personally going to see any of the officials of the Santa Cruz Company?

A. Well, I knew I was out so I didn't think it would do much good.

Q. Well, you saw the picket line, and so on. Was it your understanding that the union was more or less handling [646] this matter?

A. Yes.

Q. In connection with this supposed bargaining with the company for better conditions, what were the items that you were chiefly concerned about?

A. Well, the items I was chiefly concerned about was going to work at 6 o'clock at night and work till noon the next day.

Q. In other words, you objected to long hours?

A. Long hours and measly pay.

Q. And those were the two chief items?

A. Yes sir.

Q. Other matters were more or less secondary?

A. They were secondary.

Q. And you understood that the union intended to ask for shorter hours and higher pay?

A. Yes.

Q. Were you particularly concerned about the specific amounts that they were going to demand in the way of pay as long as they were higher?

A. I didn't know much about that. I wanted to make a decent living anyway.

Q. Were you prepared to accept whatever they got for you?

A. Whatever the union got?

Q. Yes.

A. Yes.

(Testimony of August Sannebeck.)

Trial Examiner Traynor: Did you have any furthere questions, Mr. St. Sure?

Recross Examination

Q. (By Mr. St. Sure) You say you expected the union to try and represent you, or to represent you. By the way, when did you first go on the night shift? How long had you been working on the night shift?

A. I should say about a month before the strike.

Q. And did you ever talk with your foreman or anyone else, about the hours you were working?

A. Yes sir, we did.

Q. When did you talk to him about it?

A. Lots of times. We asked nearly every day to get somebody to take our place so we could go home.

Q. Didn't they work two shifts at that time?

A. No sir. We used to start at 6 o'clock and when we finished in the morning we went home, whether it was 8 o'clock, 9 o'clock or 10 o'clock. We worked straight through.

Q. You mentioned working until noon the next day.

A. We worked lots of times until 11:30 and 12 o'clock once in awhile. Most of the time it was 9 and 10 o'clock.

Q. And your work was what, in particular?

(Testimony of August Sannebeck.)

A. Particularly, I trucked and cased in on the labeling [648] machine, and trucked and stacked cases.

Q. You said you expected the union to represent you in getting better hours and wages. You heard Mr. Huddleson, on Monday night, say he couldn't pay the union demand of 62½¢ an hour. What did you expect the union to do for you after that? You say you believed Mr. Huddleson meant what he said. What did you understand the union would do for you after that?

A. I understood they would try to get it, that they would negotiate with him to see what they could get.

Q. Well, he had said flatly on Monday night, he wouldn't pay it. What did you think was going to happen next?

A. I don't know.

Q. Did it occur to you at all that one of the weapons of the union is a strike? Was that discussed at all as to whether you would do anything in your own behalf through the union to try to enforce these demands?

A. Not with me, no sir.

Q. You didn't have anything of that kind in mind?

A. Not with me.

Q. You thought the union would convince Mr. Huddleson by negotiations?

A. Yes sir.

(Testimony of August Sannebeck.)

Q. After the meeting on Wednesday night you say you went back to the plant Thursday. Was it your thought that the union would continue to try to negotiate with the management [649] for you?

A. Yes sir.

Q. What was your understanding of why the picket line was established?

A. I knew that he hadn't given it to us.

Q. What was the picket line supposed to accomplish? What was it supposed to do? Was it going to take part in these negotiations?

Mr. Edises: Just a minute, I believe that that question is not altogether clear. Apparently it ties up the previous situation with the picket line in such a way that the intervening situation is not made apparent to the witness. I suggest that the question be clarified.

Mr. St. Sure: I will withdraw it.

Q. (By Mr. St. Sure) After the initiation meeting, and after you had gone back to the plant and Stan Toresen told you your job was filled, what did you then understand the union was going to do?

A. They were going to get us what they were asking, and our jobs back.

Q. How did you understand they were going to do that?

A. I didn't understand.

Q. What did you understand your job was or the purpose of your being on the picket line?

A. To help the negotiations. [650]

(Testimony of August Sannebeck.)

Q. And how were you to help the negotiations? Or were you to help by trying to shut the plant down by stopping traffic from going in and out? Was that one of the things you were supposed to try to do?

A. We weren't supposed to try to do that.

Q. Well——

A. (Interrupting) We were going to help the union get what we wanted.

Q. I mean, how—what was it you were doing and how did you go about it?

A. I can't get what you mean on that question.

Q. Well, you said you were out there as pickets to try and get what you wanted. I want to know what you did that helped, and how you figured what you were doing helped, and what were you doing that would help out from your end of it?

A. (Pause)

Q. There were several hundred other people employed there, weren't there?

A. Yes sir.

Q. And at that time there were one thousand people employed in the plant. You can take my word for it. Did you feel it would help your cause if you would get them to stop work, too?

A. Yes sir.

Q. Did you try and get them to stop work and help you?

A. Not myself, no. [651]

Q. Well, was that part of the purpose of the picket line, as you understood it?

(Testimony of August Sannebeck.)

A. No, not for that.

Q. What was the purpose of the picket line? Was it to try and prevent produce from going in there and canned goods going out so the plant would have to shut down?

A. Yes sir.

Mr. St. Sure: I think that is all.

Further Redirect Examination

Q. (By Mr. Edises) Mr. Sannebeck, was there any talk of a strike or a walkout, or a picket line before you men were locked out?

A. Not that I can recall.

Q. After the picket line was established what did you form that picket line for, after you were locked out?

A. To keep the trucks out.

Q. Isn't it a fact that you were trying to get your jobs back?

A. Yes sir.

Q. Wasn't that what the picket line was formed for?

A. Yes sir.

Mr. St. Sure: That is your answer, Mr. Edises; the witness has answered himself.

Mr. Edises: I submit that the witness really knows what he wants to say, but it is simply—

[652]

Mr. St. Sure: (Interrupting) I don't know. It is obvious that you are suggesting the answers. I

(Testimony of August Sannebeck.)

think the answers the witness has given are his own answers, and those suggested by you are obviously suggested.

Q. (By Mr. Edises) You mentioned that the pickets were to help in negotiaitons after the picket line was established, after you were locked out. What kind of negotiations, what were you concerned about doing after the picket line was established?

A. Well, to get our jobs back; help the union get our jobs back. You got me kind of mixed up here.

Mr. Edises: It is obvious to me that the witness is mixed up.

Q. (By Mr. Edises) When you left the initiation meeting Wednesday night did you understand there was to be a picket line set up?

A. Not that night. As I understand it, I was supposed to go back and go to work.

Q. When you left the meeting that night did you have the idea you were not to receive your job back?

A. No sir; I did not.

Mr. Edises: That is all.

Mr. St. Sure: No other questions.

(Witness excused) [653]

Mr. Edises: Mr. Ellis.

FERN ELLIS,

called as a witness for the National Labor Relations Board, being first duly sworn, testified as follows:

Trial Examiner Traynor: I think it may be a good time to take a short recess now.

(At this point a recess was taken, after which proceedings were resumed as follows:)

Trial Examiner Traynor: You may proceed.

Mr. St. Sure: I have asked permission of Mr. Edises to withdraw the witness on the stand and permit Mr. Williams to go on now and enable him to get away as soon as possible.

Mr. Edises: Yes.

Trial Examiner Traynor: Is that agreeable to you, Mr. Edises?

Mr. Edises: All right.

R. F. WILLIAMS,

called as a witness for the National Labor Relations Board, being first duly sworn, testified as follows:

Mr. St. Sure: It is understood, for the purpose of the record, that Mr. Williams is here pursuant to the understanding that he will be subpoened.

Mr. Edises: Yes, I have a subpoena here for Mr. Williams. It is understood that Mr. Williams is here pursuant to subpoena issued by the Board.

[654]

(Testimony of R. F. Williams.)

Direct Examination

Q. (By Mr. Edises) What is your name?

A. R. F. Williams.

Q. And what is your position?

A. Assistant to the manager of the Santa Cruz Fruit Packing Company.

Q. How long have you been with the Santa Cruz Fruit Packing Company?

A. About thirty months.

Q. What?

A. About thirty months—a little over two years.

Q. And had you been in the canning industry prior to that?

A. Yes, I have been in the canning industry for sixteen years.

Q. Can you give us a brief account of your experience in the canning industry?

Mr. St. Sure: You mean the positions he has held?

Q. (By Mr. Edises) Yes, such as yould qualify you for the job you now hold.

A. Yes. Well, I was assistant general manager of the California Cooperative Canneries; then sales manager for them for about ten or twelve years.

Later I was general manager of the Tri-Valley Packing Association.

Mr. Edises: Can we stipulate that Mr. Williams is [655] an expert in canning, the canning business?

(Testimony of R. F. Williams.)

Mr. St. Sure: As a result of his experience, and by reason of his background and the positions that he has held, he is an expert in the administrative business of canneries, as well as salemanship, and I don't know what else.

What have you in mind, Mr. Edises?

Mr. Edises: I have a few general questions about the canning industry in California that I would like to ask.

Mr. St. Sure: Suppose you put the questions. If I object to lack of foundation, then we can qualify him.

Q. (By Mr. Edises) Will you describe your duties and responsibilties as assistant to the manager at the Santa Cruz plant?

A. Well, principally my duties are in connection with the control of the sales and the salemen, when Mr. Huddleson is absent; and when he is at the office, of course, assisting him in the details of his own work.

Q. And do you have anything to do with the receiving end, and the processing end, and the warehouse end, and so on?

A. Only in a general sense of the word. We have a general superintendent who handles that work.

Q. And is your position above that of the general superintendent?

A. Yes sir.

(Testimony of R. F. Williams.)

Q. How long has Santa Cruz Fruit Packing Company been [656] in existence as a California corporation?

Mr. St. Sure: I think that is admitted in the pleadings.

Q. (By Mr. Edises) I asked how long.

A. Well, I think it has probably been under two corporate names.

Mr. St. Sure: The complaint alleges that the corporation has been in existence since February 6, 1914, and my recollection is that we admitted that in the answer. If it isn't admitted, we now admit it, for whatever the purpose may be.

Q. (By Mr. Edises) Referring specifically to the Oakland plant of the Santa Cruz Fruit Packing Company, how long has that been in existence?

A. As a property of the Santa Cruz Fruit Packing Company, since 1932, the year they came up here.

Q. And what in general are the operations that are carried on at the Santa Cruz Fruit Packing Company's Oakland plant?

A. Do you mean the specific products that are packed in it?

Q. First what is the nature of the work which is done there?

A. Canning of fruits and vegetables.

Q. And what are some of the major crops? Let me put it this way: What is the most important pack?

Mr. St. Sure: Numerically? [657]

(Testimony of R. F. Williams.)

Q. (By Mr. Edises) Quantitatively.

A. Tomatoes and tomato products.

Q. And after that?

A. Peaches.

Q. And then the next most important?

A. Spinach would be next, I presume, in order, and asparagus.

Q. And still in a quantitative sense, what would be next most important?

A. Pork and beans are packed. The volume of that would probably be ahead of some of those other items.

Q. How about pears?

A. No, we don't pack pears.

Q. No pears?

A. No.

Q. What other packs do you handle at the Santa Cruz Fruit Packing Company plant?

A. We pack—well, we have packed artichokes?

Q. Artichokes?

A. Yes. We pack red kidney beans and hominy. Those are practically all that we pack there.

Q. Those are the principal packs?

A. Yes, they are.

Q. I understand that the Stokely place is connected with the Santa Cruz plant in some manner. Can you tell us what interest, if any, Stokely has in the Santa Cruz Fruit Packing [658] Company?

A. Well, it is a contractual interest. I haven't the knowledge of the details of the contract existing between the two companies.

(Testimony of R. F. Williams.)

Q. Do you know what the capital set-up of the Santa Cruz Fruit Packing Company is, the amount of the capital stock and so on?

Mr. St. Sure: In so far as matters that would be of record in relation to the contractual or other connection between Stokely and Santa Cruz, or the capital set-up of Santa Cruz, we must insist that that information, if it is material, be developed from the records themselves and not from hearsay testimony of Mr. Williams or any other person.

Q. (By Mr. Edises) Would Mr. Gaddis, the secretary, be in position to give us first-hand information of his own knowledge of the corporate set-up of Santa Cruz and its connection with Stokely, or do you yourself have that information?

A. No, I do not. I think Mr. Huddleson would be the party that could give it to you.

Q. Do you know that on November 23, 1934, the Santa Cruz Fruit Packing Company increased its capital stock from $100,000 to $110,000, divided into 1,100 shares of the par value of $100 per share, 550 shares preferred, and 550 common, and that one-half of the entire capital stock was [659] transferred to Stokely?

A. No, I don't know that of my own knowledge.

Q. Do you know about what quantity of canned goods is put up by Santa Cruz for Stokely during the course of a year, or specifically, during 1935?

A. Do I know what quantity of canned goods were put up?

(Testimony of R. F. Williams.)

Q. Yes, about how much was put up by Santa Cruz for Stokely?

A. I would say somewhere around between 40 per cent and 50 per cent of the quantity of our pack was put up for them.

Q. What?

A. Somewhere around 40 per cent or 50 per cent of the pack.

Q. Of the entire Santa Cruz output?

A. Yes.

Q. Was put up for Stockely?

A. Yes sir.

Q. And what were the chief products?

A. Tomatoes and tomato products.

Q. Anything else?

A. Yes, pork and beans represent quite an item, too.

Q. And anything else?

A. Hominy and red kidney beans.

Q. Do you know about what percentage of the pack which was put up for Stokely was shipped out of the State of California to the Stokely distributing agencies in other states of the [660] Union?

A. I would say somewhere between five per cent and ten per cent.

Q. And the balance of the stuff put up for Stokely——

A. (Interrupting) Was used locally in the State of California.

Q. Used locally in the state?

A. Yes.

(Testimony of R. F. Williams.)

Q. I take it that employment at the Santa Cruz plant is seasonal in nature, that is, there are heavy seasons and light seasons, is that true?

A. That is true.

Q. And when is the peak season as far as employment is concerned?

A. Usually during the peach season; that would be midsummer.

Q. And at that time about how many employes are employed in the Santa Cruz plant?

A. Well, I would say from 1,200 to 1,500 individuals.

Q. That includes the Stokely warehouse?

A. Yes. Well, that wouldn't make much difference; the number of employes wouldn't make much difference as between the two.

Q. And a certain faction of the employes at the Santa Cruz plant remain there during the entire year, is that [661] correct?

A. Yes, that is right.

Q. Now, which types of labor are kept for the entire year?

A. Well, machinists, superintendents, specialist in processing, warehouse employes; and of course all clerical and office help, and then whatever is necessary to the processing of the non-seasonal products, which is ordinary labor for that purpose.

Q. The warehouse employes are not seasonal; they are retained the year around. Is that correct?

A. To a certain extent. There are peak periods in warehousing as well as in processing.

(Testimony of R. F. Williams.)

Q. Can you estimate about what variation there is in warehouse employment during the off season and the busy season?

A. Well, as a rule they have tried to handle it so as to spread the employment and keep as many of the men on as possible, especially of the older men. In that way it is usually run more on a basis of hours, rather than the numerical strength of employes. It varies. The extra help brought in may run 15 or 20 per cent, or 25 per cent higher at times.

Q. There is a spur line, is there not, running from the main line to the Santa Cruz plant?

A. Yes sir. [662]

Q. What railroad company is that?

A. Southern Pacific.

Q. Southern Pacific?

A. Yes.

Q. Is the spur line the property of the Santa Cruz Company or the property of the Southern Pacific?

A. I am not sure. I believe that the cost of installing spur tracks in the state is initially expended by the company and I think revert to the railroad company. I think it is their property. That can be established and given to you at a later date. I think that is the way it is.

As a rule, the company pays for it and the property reverts to the railroad company.

Q. The track was installed by the railroad company?

(Testimony of R. F. Williams.)

A. Yes, by the railroad company, and paid for by the company.

Q. And in the event that the company eventually ceases operation, and ceases to use it, it reverts to the railroad company?

A. Yes, there is a reversion; that is correct.

Q. Mr. St. Sure has submitted some figures in regard to the quantities and percentages of the Santa Cruz pack which is destined beyond the State of California and within the State, and——

Mr. St. Sure: (Interrupting) May I correct that— [663] destined beyond. We said those that were billed to, or sold to customers who had their principal offices outside the State. That does not mean necessarily destined outside the State.

At this time, and in this connection, I would like to state, in that figure of 69.68, which I submitted, I understand from my discussion with Mr. Williams this morning, that this 40 or 50 per cent that he referred to as being the pack for Stokely, is included in that figure; and he says that only five or ten per cent of that 40 or 50 per cent actually gets out of the State at all.

And so I take it, if my calculations are correct, that of that 69.68 per cent, which is sold to purchasers who have their principal offices outside the State, some 60 per cent of that doesn't leave the State at all. It is actually consumed here, even though it may be billed to persons outside the State.

Am I correct in that, Mr. Williams?

The Witness: That is correct.

(Testimony of R. F. Williams.)

Mr. St. Sure: Pardon the interruption. I thought that was a good time to mention that.

Q. (By Mr. Edises) According to the figures submitted by Mr. St. Sure, the 1935 total pack and carry-over at the Santa Cruz plant was 1,699,270 cases.

Mr. St. Sure: Do you want me to give you those [664] figures, or do you have them?

The Witness: I haven't got them. I think I can be close enough so that I can probably answer the question generally, for him.

May I ask for the figures if I need them?

Mr. St. Sure: Yes.

The Witness: I think I can get close enough, unless there is something to—did you want me to say that that was correct?

Q. (By Mr. Edises) Is that correct?

A. Substantially correct, yes.

Q. Now, can you state about what percentage of that entire pack consisted of peaches?

A. Of that figure, which includes both, would be somewhere around, just under two per cent, I would say.

Q. Under two per cent?

A. No, under 20 per cent, I should say.

Q. Around 20 per cent?

A. Yes, that is right.

Q. And about what percentage would the tomatoes and tomato products be?

A. About between 40 and 50 per cent. May I correct that peach figure? I think that probably it

(Testimony of R. F. Williams.)

is about 15 per cent; probably a little lower than 15 per cent.

Q. About 15 per cent? [665]

A. Yes, of the total.

Q. And about what percentage would be spinach?

A. About ten per cent.

Q. Two per cent?

A. Ten per cent.

Q. And asparagus?

A. Possibly two per cent.

Q. Is the one spur track serving both the Stokely and Santa Cruz warehouses?

A. No.

Q. Stokely has a separate spur track?

A. Stokely is located on an industry track. I think it belongs to—I think it is a real estate group and it probably serves industries, several industries on the same track.

Q. I see. Can you estimate about what proportion of the canned goods which enter the Stokely warehouse are then placed either upon trucks or box cars, or other means of transportation and then shipped outside the State of California?

A. As I told you a few minutes ago, my estimate would be between five per cent and ten per cent, possibly not of the total pack; some of which might be loaded directly, or loaded from the docks where some storage—where they have some storage. [666]

(Testimony of R. F. Williams.)

Q. Now, then, exclusive of Stokely, according to the figures we have from Mr. St. Sure, 9.02 per cent of the total pack and carry over is sold to purchasers outside of the United States. I presume that means chiefly the British Isles, does it not?

A. Yes, by far the greatest volume of business goes there.

Q. Can you state about what percentage of your entire foreign shipments goes to the British Isles?

A. Well, my guess would be that it would run possibly ninety to ninety-five per cent of that 9 per cent.

Q. Ninety to ninety-five per cent?

A. Yes sir.

Q. Can you state approximately how many cars per day, on an average, are loaded at the Santa Cruz warehouse during the busy season, which, I take it, is from about June to September or October, is that correct?

A. Well, yes; probably the shipping season would be a little bit later. It would probably extend from August, say the latter part of July until the latter part of September or the first part of October.

Q. Can you estimate an average of about how many cars a day are loaded?

A. Do you mean by that you want rail transportation only?

Q. First with rail transportation, yes—one further qualification. I take it that some of the cars that are loaded go directly overland, is that right?

[667]

(Testimony of R. F. Williams.)

A. That is right.

Q. And other simply go to the docks from where they are——

A. (Interrupting) The reason I asked you to distinguish which you meant was because of the fact that most of the dock shipments go on trucks; they are not loaded on cars, you see, so that the proportion that travels by rail is very small.

Q. I see.

A. It would be rather difficult to give you an estimate of how many cars are loaded, rail cars are loaded out of there because only about 20 per cent of the total shipments overland go on rail.

Q. You say that about 20 per cent of your total shipments go overland by rail?

A. I think that would operate for the industry as a whole, and I take it we must be——

Mr. St. Sure: (Interrupting) Just a moment. It wasn't 20 per cent of the shipments did go. Rather, of the merchandise that does go outside the state, about 20 per cent of that which is purchased by shippers and which goes to them outside the state goes by rail.

The Witness: Yes, 20 per cent or less. It is in that neighborhood and that holds true for the industry.

Q. (By Mr. Edises) You are referring to buyers chiefly on the east coast, I take it?

A. No, none of that travels by rail. [668]

Q. Well, now——

A. (Interrupting) It is only inland where the rail rates from the port are higher than the

(Testimony of R. F. Williams.)

through rates that exist from here by rail to where these shipments go.

Q. To what points do you ship chiefly by rail?

A. Well, to mention major markets, such as Chicago, Kansas City, St. Louis. Of course, the Twin Cities.

Q. Any others?

A. Well, you might say all of northern Missouri; the Rocky Mountain territory.

Q. Can you give an estimate, in terms of quantities, whether by cases or cans, or tonnage, or any other way, of about how much of your yearly pack of all products is shipped to the inland points that you have mentioned by rail from the Santa Cruz plant?

A. Only I would say again it was substantially less than 20 per cent of the total shipments—wait! You say of all of our sales, or all of our pack?

Q. Of all of your pack that is shipped out.

A. It is less than that because I would exclude—because that doesn't come in. The separation, as between rail and water shipments these days, in the industry is somewhere around between 15 and 20 per cent by all rail movement and the remainder by water, or water and rail. [669]

Q. And these rail shipments, I take it, all go beyond the borders of the State of California?

A. No, that wouldn't hold true because they do ship some intrastate shipments.

Q. About what per cent would you say was intrastate?

(Testimony of R. F. Williams.)

A. It would be very small; possibly two or three per cent.

Q. Of the approximate 20 per cent?

A. Of the 20 per cent.

Q. And the balance goes beyond the borders of the State of California?

A. Goes into those territories that I mentioned heretofore, yes.

Q. And I take it then that as far as domestic purchasers are concerned, your chief method of shipment is by water?

A. By water.

Q. Based on the fact that water rates are usually lower?

A. That is right.

Q. Dealing now with the domestic shipments of your products by water, about what percentage of your total pack, during 1935, for example, was shipped by water to the various points in the United States outside the State of California?

A. I would like to give you the actual figures on that. I would be glad to submit them; the reason for it being that there are quite a lot of merchandise that is sold which isn't [670] shipped, you see, and I haven't got that separation clear in my mind.

Q. You say there is a certain portion which is sold but not shipped?

A. That is correct.

Q. Can you enlarge upon that and tell us what you mean?

(Testimony of R. F. Williams.)

A. They are under contract for movement at a later period.

Q. I see. And is that period ordinarily during the given year, or is there a carry over through the winter?

A. It carries over through the winter. As a rule the end of the term is around March 1st. There are a number of the contracts which do end December 31st. For instance, we bill against warehouse receipts. We sell the eastern buyer, you see, with the definite shipping date for, as our contract specifies, we have a right to bill them against a local warehouse receipt, which we do, and the merchandise is theirs and they ship it; from that point on we just act as an agent in shipping it for them.

Q. You speak of selling goods but not shipping the goods. Where are they stored?

A. Stored in our warehouse.

Q. In your own warehouse?

A. Yes.

Q. And your own men, your own warehouse employes do the actual loading into trucks or cars when the shipping date [671] arrives, is that correct?

A. That is true.

Q. Even though, as you say, the merchandise has already been sold, is that true?

A. That is correct.

Q. So that, I take it, there is a pretty constant stream during the entire year, and particularly during the period that you have mentioned, July to

(Testimony of R. F. Williams.)

September, of loading and shipping at the Santa Cruz plant, is that correct?

A. That is correct.

Q. Regardless of the form of the transaction, or the contract with your buyers, every bit of the goods which is canned at the Santa Cruz plant is handled by your own warehousemen, is that not true?

A. That is canned at our own plant?

Q. Put up at your own plant, it is handled by your warehousemen?

A. Yes.

Q. And your warehousemen do all of the loading of the canned goods into whatever vehicle of transportation has been chosen for the purpose, is that correct?

A. If you mean the immediate carrier, yes.

Q. Pardon me?

A. If you mean the immediate carrier, the immediate form [672] of transportation, yes. For instance, we don't load steamships. We have nothing to do with that. We load it primarily for transportation to the docks.

Q. Your men put it into the trucks, is that correct?

A. Yes, correct.

Q. And the trucks carry it to the dock?

A. Right.

Q. And then your men haven't anything to do with the loading into the ships?

A. No.

Q. However, that is a pretty continuous operation, is it not?

(Testimony of R. F. Williams.)

Mr. St. Sure: That is calling for a conclusion.

Mr. Edises: Let him get at it any way he wants. Do you object to my asking the question in that form?

Mr. St. Sure: It seems to me it is vague—"it is a continuous operation." I think the operation is one thoroughly well known. The trucks take it to the dock and apparently it is handled by one group of car unloaders, and a group of warehousemen and a group of stevedores, under the present set-up. It may take a week or a day.

Mr. Edises: That is the point I am interested in bringing out.

Q. (By Mr. Edises) What period of time elapses ordinarily from the time that the goods are loaded into the trucks until [673] the time that they are loaded on to the steamships?

A. The customary free storage time on the dock is ten days and we try to get it to the dock as far ahead of the movement of the steamer as possible, of course; and it varies sometimes.

Q. But ordinarily not over ten days, is that correct?

A. It is ten days; ten days is the period of free storage.

Q. And as a general thing it is usually less than ten days from the time that it is loaded into the trucks until the time that it is loaded on to the steamship?

A. Well, I would say that it would average less than ten days; that, depending, of course, on the regularity of schedules of the steamship companies.

(Testimony of R. F. Williams.)

Q. Average about how many days?

A. I would only be guessing to tell you that. I think that probably somewhere around seven or eight days.

Q. Can you tell us approximately what percentage of your total pack in 1935 was shipped by water, either to foreign ports or to domestic points outside the State of California?

A. I would like to refer to the figures, if I may. You have them there. (Referring to data) I would say that somewhere around twenty-five per cent. You notice the reason I wanted to refer to these figures was you asked for the shipment—

Q. (Interrupting) What is that?

A. You asked for the shipment of goods. These figures that [674] we have here (Indicating) are sales and not movement.

Q. Oh, yes.

A. And I am trying to figure it back from these figures to the movement.

Q. Yes.

A. And I would say that it is somewhere around twenty-five per cent that moved by water domestically and export combined.

Q. About what proportion of the total pack of new canned goods, that is the canned goods which are first put up during the season, are moved during that season and about what percentage is carried over?

A. The carry over is relatively small. For instance, when we give you the figure of about 1,700,-

(Testimony of R. F. Williams.)

000 cases there is probably only 100,000 cases of it not packed during the current year.

Q. And all the rest—

A. (Interrupting) All the rest is current year's production.

Q. And is moved out of the plant, is that correct?

A. Well, no; I wouldn't say that all of it is moved when this figure is given you, understand; what I mean, when I say movement, this March 1st, which is the tax period—the first Monday in March in California is the tax period—and that is the reason for setting the terminal dates on these contracts and the reason these goods don't move is that the [675] buyers take as long as they can to accept the delivery over the period. We spread it. The terminal date being March 1st, the majority of them move out. All the sales prior to that time do move out, and naturally selling during the year goes on to liquidate for the remainder of your former year's crop.

Q. I show you a document which is headed, "British Isles Canned Food Contract Buyer's Copy," and ask can you identify that?

A. (Examining document) Yes, it is a customary canned food contract covering sales made to the United Kingdom of Great Britain by the canners of California.

Q. And who fills out this contract, who prepares it?

A. It is prepared by the seller.

Q. By the seller. Will you relate the process whereby a sale is made to a purchaser in the Brit-

(Testimony of R. F. Williams.)

ish Isles, describing the function of the broker, and so on?

A. Yes. You want this specifically relating to our case or the general industry method?

Q. Relating specifically to your industry, to your own company, I mean.

A. Yes. That is what I mean. Well, the procedure is, first, you appoint a broker in one of the markets, probably in London. That broker is acting on a commission basis. We, ourselves, have no contracts. We don't make a brokerage contract with any broker. In other words, we have a right to accept business [676] from the U. K., or any market from a broker that we see fit on the customary terms of payment, that is, a commission of 2½ per cent.

These brokers, in these outlying markets cable in an offer or order. Then the procedure is for ourselves to decline or confirm the order as we see fit. If it is confirmed we prepare our contract covering the sale.

Q. And you designate the means of shipment, I take it?

A. You mean by that the routing?

Q. The routing, yes.

A. No, the buyers, as a rule, do that; the buyers, as a rule have some preference as to shipment and they designate it.

Q. But how about the specific vessel that it is shipped on?

A. That is what I mean.

Q. They designate the vessel?

(Testimony of R. F. Williams.)

A. As a rule, the buyers through solicitation do it. We have the right, but they do it.

Q. I believe that the contract provides that you have the right?

A. That is correct, yes.

Q. And your permitting the buyer to designate the route is something in the nature of a courtesy, is that true?

A. Well, it is more in the nature of a custom of the trade.

Q. Was there any particular reason that you know of for [677] including in this type of contract, which I understand is used pretty generally by the trade, that the routing is to be designated by the shipper?

A. Yes, it is for the purpose—for instance, if there is any difficulty in shipping by the line designated by the buyer, we have open to us other lines of transportation.

Q. Now, this British Isles Canned Food Contract, that I have previously referred to, is, I take it, what is known as a c. i. f. contract, is that right?

A. Yes, that is a c. i. f. contract.

Q. In other words, the cost, insurance and freight, are included in the price which you quote to the buyer.

A. That is right.

Q. And dealing with the British Isles again, how is the bill of lading made out? Can you answer that question or do you want me to be more specific?

A. Yes; I wish you would.

(Testimony of R. F. Williams.)

Q. For example, is it made out to yourselves or order, or is it made out to the seller, that is—

A. (Interrupting) Yes.

Q. And specifically, can you relate just how it is made out? You know that certain of these, or some of them are made out to the seller and the others to the seller or order. That is your practice, is it not?

A. Yes. I might clarify this by saying that in some [678] instances the buyers have agents here who take out their own bills of lading and documents on shipments. In that event, we, of course, don't handle any shipping documents whatsoever, but in the case of shipping direct to a buyer, we would ship it our order to notify the consignee.

Q. What is that?

A. Ship to our order and notify the consignee.

Q. And, I take it, that that is the usual practice in shipping to the British Isles, is that true?

A. Well——

Q. (Interrupting) In other words, about what proportion of your shipments to the British Isles are handled in that fashion and what proportion by this other method that you have just indicated?

A. I would say about 50 per cent.

Q. 50 per cent each way?

A. Yes sir.

Mr. Edises: Have you a copy of the——

Mr. St. Sure (Interrupting) Here is the form of order bill of lading (indicating).

The Witness: That is the domestic steamship bill of lading.

(Testimony of R. F. Williams.)

Mr. St. Sure: Yes, American-Hawaiian.

Q. (By Mr. Edises) This is the domestic form. Have you [679] one for foreign shipment?

A. I don't think we have one of the foreign line bills of lading. We can get you one.

Q. You would state that 50 per cent of your shipments to the British Isles are made out in the form of a bill of lading to seller or order, to yourselves or order, and about 50 per cent in the other fashion that you have indicated?

A. I think that would be substantially the proportion that would be handled in that manner.

Q. Isn't it a fact that the almost universal practice in shipping to the British Isles, among canners in the State of California, is to make out the bill to the seller or order?

A. Yes, I think that most canners in the industry handle it in that way. You see all of these documents are endorsed and sold locally. Most of the contracts that are issued in California, especially domestic contracts, more than the export contracts, are sold f. o. b. the point of embarcation; that is the docks here in San Francisco or the Oakland side of the Bay, as the case may be.

Q. In other words, the usual practice for foreign shipments is to ship c. i. f. bill of lading made out to the seller or order?

A. Well, yes, if that is a c. i. f. sale. Of course, there is quite a proportion of these sales that are made [680] f. o. b. I am speaking now of the industry.

673

(Testimony of R. F. Williams.)

Q. Now, of your own sales to the British Isles, because I imagine that that is the major point of destination, what proportion of your sales contracts are c. i. f., and about what proportion f. o. b.?

Mr. St. Sure: We have that figure in the record, 7.02 per cent c. i. f., and two per cent f. o. b., those two figures making up the 9.02 per cent export or sales to purchasers outside the United States.

Q. (By Mr. Edises) Does the form—

A. (Interrupting) May I clarify that a little? We may make a c. i. f. sale, but it may be handled, as I said before, that the shipping documents are handled by an agent of the buyer on this side, and in that c. i. f. proportion is a substantial volume of that character of sales.

Q. Regardless of the form of the contract, does that ordinarily affect the way the bill is made out, c. i. f. or f. o. b.?

A. No, it does not.

Trial Examiner Traynor: We will recess now until 2 o'clock.

Mr. St. Sure: How much longer will you have Mr. Williams on the stand? He has a meeting in San Francisco and would like to be there by 1:30.

Mr. Edises: Off the record.

Trial Examiner Traynor: Off the record. [681]

(Discussion off the record)

Q. (By Mr. Edises) Is the bill ever made out to the buyer in your practice, the bill of lading?

A. Yes. It is infrequent, but it is done.

(Testimony of R. F. Williams.)

Q. And on those occasions, is the bill retained by the seller until either payment has been made or these has been the necessary adjustment at the other end?

A. No, not necessarily. There are some cases where the concern is shipped on practically open account and it is in those cases.

Q. It is infrequent, is that correct?

A. Yes, I would say that is infrequent. We are referring now, again to export or domestic, because that is a little different than the practice between the two.

Mr. St. Sure: Which are you referring to?

The Witness: I am asking which?

Mr. St. Sure: He asked whether you were referring to export or domestic.

Mr. Edises: I am still speaking of export.

The Witness: That is very rare.

Q. (By Mr. Edises) Now, is the draft made out at the time the contract is made out?

A. Yes.

Q. What happens to that draft? By the way, on whom is it drawn? [682]

A. It is drawn on the buyer.

Q. And what is done with the draft?

A. It is customarily sold locally.

Q. Sold locally?

A. Yes sir.

Mr. Edises: You have seen these, Mr. St. Sure?

(Referring to British Isles Canned Food Form of Contract and form of Draft.)

(Testimony of R. F. Williams.)

Mr. St. Sure: Yes. I suggest, in offering these that we are not waiving any of our former objections as to materiality, jurisdiction, and so on, but to assist in getting the picture in the record.

Mr. Edises: Yes. I offer in evidence, as Board's Exhibit No. 6, British Isles Canned Food Contract.

Trial Examiner Traynor: Admitted as Board's Exhibit No. 6.

(The form of contract referred to was received in evidence and marked Board's Exhibit No. 6, Witness Williams.)

Mr. Edises: As Board's Exhibit No. 7, I offer form of draft with the company's bill of lading, and made out at the time the contract is filled out.

Trial Examiner Traynor: Admitted as Board's Exhibit No. 7.

(The form of draft referred to was received in evidence and marked Board's Exhibit No. 7, Witness Williams.) [683]

Q. (By Mr. Edises) Can you produce for us, Mr. Williams, a specimen bill such as is used in shipments to foreign points?

A. I would be very glad to.

Mr. Edises: And will you, Mr. Reporter, reserve an exhibit number for that?

The Reporter: That will be Board's Exhibit No. 8.

(The specimen bill referred to, such as used in the shipment of merchandise to foreign points, will, when submitted by the Respondent, be marked as Government's Exhibit No. 8, Witness Williams.)

(Testimony of R. F. Williams.)

Q. (By Mr. Edises) Now, about the domestic shipments. I understand that most of those contracts are f. o. b. Oakland, is that correct?

A. (No answer)

Mr. Edises: I offer in exidence the document which was formerly marked Respondent's Exhibit No. 2 for identification, and request that it be made a part of Board's Exhibit No. 6.

Trial Examiner Traynor: Admitted in evidence as part of Board's Exhibit No. 6.

Mr. St. Sure: That is with the understanding that it is offered and received subject to the objections we have previously made and without waiving any of those objections?

Trial Examiner Traynor: Yes.

(The document referred to, Respondent's Exhibit No. 2 for identification only, was received in evidence and made a part of Board's Exhibit No. 6. Witness Williams.) [684]

The Witness: May I have that last question read back to me?

Q. (By Mr. Edises) How are the domestic shipments handled, that is, what form does that contract take?

A. It takes the usual California canned foods contract.

Q. And is that f. o. b. Pacific Coast?

A. F. o. b. Pacific Coast.

Q. And specifically f. o. b. Oakland in your case?

A. F. o. b. Oakland, or Bay points.

Q. Oakland or Bay points?

(Testimony of R. F. Williams.)

A. Yes sir.

Q. Is this form of contract (indicating) used in domestic sales?

A. (Examining form of contract) Yes, it is.

Mr. Edises: I offer this in evidence as Board's Exhibit No. 9.

Mr. St. Sure: Subject to the same objections.

Trial Examiner Traynor: Admitted as Board's Exhibit No. 9.

(The domestic sale form of contract referred to was received in evidence and marked Board's Exhibit No. 9, Witness Williams.)

Q. (By Mr. Edises) How about the bill of lading in the domestic shipments?

A. The bills of lading in the domestic shipments are customarily made to the order of the shipper, notify the—— [685]

Q. To the order of the shipper?

A. Yes.

Q. Notifying the consignee?

A. Yes.

Q. Now, I show you a document marked "Uniform Straight Bill of Lading," and another marked "Uniform Order Bill of Lading," and can you tell us the different circumstances under which each of those is used?

A. Well, the uniform straight bill of lading is used in cases where you do not ship the merchandise under negotiable documents.

Q. And what about—about what proportion of your domestic shipments are used on the straight form?

(Testimony of R. F. Williams.)

A. I am afraid I couldn't give you a very close figure on that.

Q. Well, you ordinarily use the order form, don't you?

A. Yes. I would say that there is more use of the order form than of the straight bill of lading.

Mr. Edises: I offer these in evidence.

Q. (By Mr. Edises) These are the only forms that you use, are they not?

A. I think that is a uniform bill of lading. It would be changed by the name of the railroad company. One railroad company uses the same as the others, and I think they are standard forms. [686]

Q. This (indicating) is the Southern Pacific Company's form, and you do all of your overland shipping through the Southern Pacific, do you?

A. No, we may ship on other lines.

Q. What line has the major part of your domestic business?

A. The Southern Pacific would have probably the major portion.

Mr. Edises: I offer these two forms in evidence as Board's Exhibit No. 10.

Trial Examiner Traynor: Admitted as Board's Exhibit No. 10.

(The uniform straight bill of lading referred to, and the uniform order bill of lading referred to, were received in evidence and marked Government's Exhibit No. 10, Witness Williams.)

Q. (By Mr. Edises) I show you two other documents, marked "Order Bill of Lading," and

(Testimony of R. F. Williams.)

"Straight Bill of Lading," and I take it that these are forms used in shipping by water; is that correct?

A. (Examining forms) That is correct.

Q. What steamship company handles the major part of your domestic shipments?

A. That is divided. I would say it is very difficult to tell without an analysis, because the principal direction of the routing of all of this domestic business is in the hands of the buyers. We don't control but very little of it. [687]

Mr. Edises: I offer in evidence these two forms as Board's Exhibit No. 11.

Trial Examiner Traynor: Admitted as Board's Exhibit No. 11.

(The order bill of lading and the straight bill of lading referred to were received in evidence and marked Board's Exhibit No. 11, Witness Williams.

Q. (By Mr. Edises) Do you ever employ the practice of sending a draft direct to the buyer along with the other documents of title? That is, instead of selling it locally, just sending the draft directly to the buyer, or to the bank, or clearing house in the buyer's city?

A. All these drafts, of which you have a copy there, usually accompany an endorsed bill of lading and they are presented by the collecting bank for collection from the consignee or buyer.

Q. In other words, the draft always accompanies the bill of lading; is that correct?

A. Yes, when there is one drawn.

(Testimony of R. F. Williams.)

Q. And that applies both to domestic and foreign shipments?

A. That is right.

Q. And that is your customary practice in all of your shipments, I take it?

A. Well, I want to clarify the fact that in the majority of instances, at practically all instances on the foreign [688] drafts, that they are sold locally. We don't send them through for collection.

Q. And how about the domestic?

A. The domestic drafts are collected through the banks.

Q. So in each case the draft accompanies the bill?

A. That is right.

Q. How about the insurance contract? How is that made out?

A. The insurance contracts, of course, only cover water shipments. They are made out to the Santa Cruz Fruit Packing Company, where we insure them. We probably insure about half, or a little less, of the movement of our goods. The most of them, or half, are insured by the buyers themselves.

Q. And you yourselves insure the shipment in every case where it is sold c. i. f.?

A. Well, yes; we do if we handle the document.

Q. That of course follows.

A. You understand that these cases where the people handle the document locally, they do the insuring themselves and we simply make them an allowance for it.

(Testimony of R. F. Williams.)

Q. Now, of the various products which you handle, I take it that in certain cases, more than in other other cases, are shipped either to foreign countries or out of the state of California? [689]

That question isn't very clearly worded. Let me put it this way. Certain packs are almost entirely export packs, is that not correct?

A. No, that isn't correct.

Q. Well, take peaches, for instances. Isn't it true that of your annual pack of peaches almost the entirety of it is shipped either to foreign countries or outside the state of California?

A. The peach pack?

Q. Yes.

A. Being shipped entirely to foreign countries—

Q. (Interrupting) Either to foreign countries or outside the State of California, to other points in the United States?

A. No, that isn't correct. The percentage of fruit shipped within the state would average just about the same as the vegetable shipments within the state.

Q. Well, don't you ship more of certain products outside the State of California than others?

A. I think I can help you. If you are driving at pears, for instance, it would be an export item. The volume of pears shipped to England, for instance, is greater proportionately than any other fruit.

Peaches, the proportion shipped export is very small. Of course the consumption of peaches out-

(Testimony of R. F. Williams.)

side the state of California is greater than it is in state of California [690] because the consuming public is located outside of California.

Q. Of your various packs, which is shipped most largely outside of the state of California? In other words, what is your biggest market outside of the state of California?

A. In this list that I gave you—we had better add that to it. Many apricots are shipped in quite a large volume outside the state, as well as peaches and pears.

The fruits are shipped in greater volume to the Eastern markets than the vegetables are from this territory, if that is what you mean.

Q. So that of the figures given by Mr. St. Sure and yourself, for example the figure of 9.02 per cent sold to purchasers outside of the United States, that is a figure which applies to your total pack and would probably be considerably larger, would it not, as applied to peaches, apricots and pears?

A. That is correct.

Q. Now can you estimate approximately what percentage of your peach pack is shipped either to foreign countries or to points in the United States outside the State of California?

Mr. St. Sure: Just so we won't be misunderstood in this thing—we have been using the word "shipped" and the word "sold" rather loosely, and I assume we are all talking about the same thing, but I wish we would keep in mind, for [691] the purpose of the record, the distinction which Mr.

(Testimony of R. F. Williams.)

Williams has made: that these figures that we gave were figures of goods sold to purchasers outside the state, and the lesser proportion of those goods actually sold actually moved, following the sale. I don't want to be objecting to the use of the word "shipped," but if we can understand that by "shipped" we mean that the documents themselves would indicate to whom the shipment went and who was responsible for the shipment, we can proceed with the assumption that we can use the expression to mean movement, rather than trying to say who was the owner and who was responsible for the shipment?

Mr. Edises: Well, I have no objection to using the word "movement" as far as that is concerned. I am more interested in the physical act of the movement than in the title.

Mr. St. Sure: I don't want to be in the position of assuming certain legal conclusions, drawing legal conclusions, from the use of the word. I understand we are talking about the physical movement, regardless of where title lies, and that we not have that misunderstanding in the record.

Mr. Edises: I am willing to use the word "movement."

Will you read the last question, Mr. Reporter?

(The question referred to was read aloud by the reporter as above recorded.) [692]

A. I would say that around—pardon me, but do you want to know the foreign and domestic outside of the state?

(Testimony of R. F. Williams.)

Q. Yes.

A. What I give you would be a guess, because I haven't the movement figures in my mind. I keep confusing them with sales. I would be glad to submit to Mr. St. Sure, who will submit to you later, more accurate figures for the answer of this question.

Q. Perhaps we can get at it this way. It is a fact, is it not, that every sale is eventually moved or placed in transportation in one fashion or another, isn't that true, even though a period of a few months lapses before the actual placing in transportation takes place?

Mr. St. Sure: Not necessarily out of the state. That is the thing I have in mind.

Mr. Edises: I see. Well, now——

The Witness: (Interrupting) I will give the answer to the question. The only thing is that I would like to give it with some degree of accuracy, and I am afraid I can't do it at this time.

Q. (By Mr. Edises) Your figures wouldn't vary more than a few points one way or the other? In other words, they wouldn't vary as much as 15 or 20 per cent?

A. This figure, the difference between the movement and the sales, would vary materially. I know that because—— [693]

Q. (Interrupting) Can you give us first the figure for sales and second, the figure for the movement?

A. Yes, I will be glad to segregate them like

(Testimony of R. F. Williams.)

that, if that is what you want. But I would like to give them with some degree of accuracy.

Q. Sure.

A. I can't answer that here, but I will submit that to Mr. St. Sure.

Q. You can't answer it now?

A. No. I will have them segregated for you, and I can do it and get them for you in time to include in this record.

Q. My thought was to try and get as much as possible done today. If you could give us those figures, I think that a slight variation one way or the other wouldn't be material.

A. May I see those figures? Maybe I can estimate the thing. (Referring to data, figures.)

I think your question covers only fruits. Would you object to including spinach?

Q. Let me tell you what I am trying to do. I want to find out which of your crops are sent—are chiefly sent out from the State of California.

A. Well, I can state that to you in taking apricots, peaches, pears and spinach.

Q. And about what percetnage of your total pack do these represent? [694]

A. And artichokes — what percetnage are shipped? You are trying to get out what percentage are shipped out as against the total percentage of all three or four commodities combined?

Q. Yes.

A. I would estimate that about 21 per cent of the total pack and carryover.

(Testimony of R. F. Williams.)

Q. What does that 21 per cent represent?

A. That represents those major commodities that we spoke of.

Q. The chief exports and interstate packs?

A. Well, I mean by that the packs which we ship outside of the state of California, and which go out of the state eventually, sold by us and go out of the state eventually, and the same of export, of these particular packs.

Q. Now perhaps we can get at this specific material. Taking peaches, for instance, you stated that peaches are one of the crops that are—the larger proportion of which is shipped outside the state of California?

A. Yes.

Q. Can you tell us now about what percentage of all the peaches you put up during a year are moved outside the state, moved to points outside the state of California?

A. I would say that probably 85 per cent of the peaches. I am using industry figures, rather than our own figures, [695] but I think ours would be substantially in line with the industry.

Q. How about apricots?

A. The proportion would be that great or greater.

Q. That great or greater?

A. Yes.

Q. And about what quantity of apricots do you pack during the year?

(Testimony of R. F. Williams.)

A. Well, our apricot pack would run around say from six to ten per cent of the total pack.

Q. You don't know offhand the number of cases, do you?

A. Yes, I think I can tell you—it is in the neighhood of 120,000 cases.

Q. And the number of cases of peaches that you pack during the year?

A. Peaches run around 260,000 cases.

Q. And do you pack pears?

A. Yes.

Q. About how many cases a year?

A. I am not clear on the pear pack. I would say somewhere between 50,000 and 60,000 cases.

Q. And what percentage of them is moved to points outside the State of California? About the same?

A. About the same percentage.

Q. Around 85 per cent? [696]

A. I would say so.

Q. What were the other products that you mentioned?

Mr. St. Sure: Spinach.

Q. (By Mr. Edises) How about spinach?

A. The spinach proportion would be equally as great, if not greater.

Q. Any others that move very considerably to points outside of the state?

A. No, I think those cover the major items.

Q. Is the form of insurance policy that is one of the shipping documents?

(Testimony of R. F. Williams.)

A. (Examining document) Yes.

Q. And is this the policy which is used in all cases where you yourself take out the insurance?

A. I think so. I am not positive of it, but I think it is. I wouldn't like to say this is the only form that they use, but I think it is.

Q. But all of your insurance is carried with the Niagara Fire Insurance Company?

A. I am not sure of that, but I would say that that is probably a standard form, and that that would represent the form.

Mr. Edises: I offer this in evidence as Board's Exhibit No. 12.

Trial Examiner Traynor: Admitted as Board's Exhibit [697] No. 12.

(The form of insurance contract referred to was received in evidence and marked Board's Exhibit No. 12, Witness Williams.)

Q. (By Mr. Edises) Do you buy any of your raw fruits or vegetables, or other raw materials, not speaking of machinery and things of that kind, outside of the state of California?

A. No.

Q. How about hominy?

A. Hominy?

Q. Yes.

A. That is shipped in by the people that we pack it for.

Q. Shipped in by the people you pack it for?

A. Yes.

Q. Where is it shipped in from?

(Testimony of R. F. Williams.)

A. Usually from one of the corn growing states in the East.

Q. Such as, for instance?

A. Indiana, Tennessee.

Q. Maine?

A. Illinois.

Q. Iowa?

A. Iowa.

Q. Maine?

A. No, not Maine.

Q. And what is done with the hominy after you put it up? [698]

A. What is done with it?

Q. Yes.

A. Turned back over to the people that we pack it for.

Q. Who do you pack it for?

A. Stokely.

Q. Can you identify these labels?

A. (Examining labels) Yes, I can identify these as all being labels of the Santa Cruz Fruit Packing Company.

Mr. Edises: I offer these labels, seven in number, as Board's Exhibit No. 13.

Trial Examiner Traynor: Admitted as Board's Exhibit No. 13.

(The seven labels referred to were received in evidence and marked Board's Exhibit No. 13, Witness Williams.)

Q. (By Mr. Edises) What is this label?

A. (Examining label) That is a label of Armour & Company.

(Testimony of R. F. Williams.)

Q. And do you put up any products for Armour & Company?

A. Yes, we do. We put up for any buyer that wants to apply their label to the goods.

Mr. Edises: I offer this label in evidence as Board's Exhibit No. 14.

Trial Examiner Traynor: Admitted as Board's Exhibit No. 14.

(The label referred to was received in evidence and marked Board's Exhibit No. 14, Witness Williams.) [699]

Q. (By Mr. Edises) About what percentage of your annual pack, or more specifically, your 1935 pack was put up under your own labels?

A. The 1935 pack under our own labels?

Q. Yes.

A. I couldn't answer that for you because the goods are not shipped and we wouldn't know what labels would be applied to them until the goods are shipped, you see, and the buyer has a right to designate what label he wants on the goods before shipment.

Q. Do you ship out any goods under your own labels?

A. Yes.

Q. To other states of the Union?

A. Yes.

Q. And to foreign countries?

A. Yes.

Q. I take it that you follow the wide spread practice in California of putting up goods under whatever label the buyer designates, is that true?

(Testimony of R. F. Williams.)

A. That is correct.

Q. What is that practice entitled in the trade?

A. Buyer's labels.

Q. Canning under buyer's labels, is that the term?

A. That is the term.

Q. Is most of your canning operations—do most of [700] your canning operations consist in canning under buyer's labels?

A. Yes, ours would be more under buyer's than our own.

Q. Are you familiar with the relative size—perhaps size isn't the best word—well, yes, the relative size and importance of the various canners' canning plants in the state of California? Do you know which are the largest?

A. You are speaking now from the standpoint of volume?

Q. From the standpoint of volume, yes.

A. I think the California Packing Corporation are recognized as the leader in the industry.

Q. About where would the Santa Cruz Fruit Packing Company come in the scale?

A. Probably fourth or fifth.

Q. Fourth or fifth?

A. Yes.

Q. Do you know how many canneries there are engaged in operations similar to you in the state of California?

A. I think there are some 57 institutions. That does not mean canneries. There are a number of institutions that have more than one cannery.

(Testimony of R. F. Williams.)

Q. A number of them have more than one cannery?

A. Yes.

Q. The Santa Cruz has more than one cannery?

A. Yes. [701]

Q. How many has it?

A. It has two.

Q. The other one is in Santa Cruz, California?

A. Seabright, yes.

Q. I show you a list entitled, "California Fruit and Vegetable Canners."

Mr. St. Sure: As to the material of this kind, I stated to Mr. Edises, subject to our objection as to the materiality, and as to the jurisdiction, and all of the other objections we have made, that I would not require him to document or show the foundation for any of this general material he wants to introduce. He has a list which he tells me shows the name of the canner, the location and the products of the various canneries in the State of California. I have no objection whatever to its going in for whatever it is worth, subject, of course to our objections, which we have previously made to all the testimony which has been offered. That is, we won't question the basis or foundation of the document.

Mr. Edises: I have no reason for questioning the accuracy of this list, Mr. St. Sure, and according to my best information and belief it is an accurate list of all the fruit and vegetable canners of California.

(Testimony of R. F. Williams.)

Mr. St. Sure: It may be so understood, and if we find any inaccuracies we can call them to the Examiner's [702] attention.

Mr. Edises: I offer this as Board's Exhibit No. 15.

Trial Examiner Traynor: Admitted as Board's Exhibit No. 15.

(The document entitled "California Fruit and Vegetable Canners," referred to was received in evidence and marked Board's Exhibit No. 15, Witness Williams.)

Q. (By Mr. Edises) Can you glance quickly over Board's Exhibit No. 15 and state whether or not, in making your estimate, that the Santa Cruz Fruit Packing Company was fourth or fifth in size, and the extent of its operations in California; you would still make the same statement after consulting that list of canners?

A. No, I don't think I would. This list carries such people as Heinz in it, and I don't think we want to say that we are going to take in companies of that character. I am speaking of——

Q. (Interrupting) California corporations?

A. California fruit and vegetable packers.

Q. Whose chief place of business is in California?

A. Yes, and whose chief operations are in California. I think that the volume of our operation is somewhere around fourth or fifth in the industry.

Mr. Edises: I show you this, Mr. St. Sure. (Indicating document.) [703]

Mr. St. Sure: With the same understanding, without waiving any of our objections, and subject

(Testimony of R. F. Williams.)

to the same objections already made, we have no reason to question the method of preparation or the accuracy of the statement presented. It is a statement of the exports as shown by the Customshouse service, and is a declaration of the exports of the Santa Cruz Fruit Packing Company.

If Mr. Edises states it was prepared under his supervision, and is only a summary of those statements, why it may be offered for what it may be worth, subject to our previous objections. There is no use asking Mr. Williams to identify it. We will let it go in with the same undertsanding as the other material is going in.

Mr. Edises: All right. This data was either prepared by myself or under my supervision, and it was compiled from the original records in the possession of the U. S. Customs Service at the Customs House in San Francisco.

I offer in evidence a record of foreign shipments of the Santa Cruz Fruit Packing Company products, as evidenced by export declarations filed with U. S. Customs Service, San Francisco, California, and covering the period July 18, 1935 to October 1, 1935.

If you care to look at this, I will let you.

The Witness: No, I don't think so. You probably have got it from documents. [704]

Trial Examiner Traynor: Admitted as Board's Exhibit No. 16.

(The data referred to, consisting of 20 pages, was received in evidence and marked Board's Exhibit No. 16.)

(Testimony of R. F. Williams.)

Q. (By Mr. Edises) I take it that all your shipments, both foreign and intercoastal, are declared with the Customs House; is that correct?

A. You mean by intercoastal—if it is intercoastal we consider that domestic shipments.

Q. And you don't declare your intercoastal shipments?

A. No, we do not.

Q. Do you pack fruit for salad?

A. No.

Q. Do you pack olives?

A. No.

Q. Royal Anne cherries?

A. We do at times.

Q. What about—about what proportion of your pack would you say?

A. None in 1935.

Q. None in 1935?

A. No.

Q. Any raisins?

A. No.

Q. Canned grapes? [705]

Q. Is the Santa Cruz Fruit Packing Company a member of the Canners League?

A. No.

Q. Are you familiar with the functions of the Canners League, California Canners League, what service they render to the trade and just what is their function?

A. Well, I dont' know that I could answer that question for you probably as well as some member of the Canners League. We might have some differ-

(Testimony of R. F. Williams.)

ences of opinion about the functions of the Canners League.

Q. Apart from any controversial matters, with which I am not concerned, one of their functions is the filing of statistical information, is it not, in regard to the industry?

A. Yes. We don't report to them.

Q. You don't report to them?

A. No.

Q. They do, however, have contacts in that connection in getting information from almost every canner in the State of California without exception, except, of course, yours and possibly a few others; is that not true?

A. I would be answering something I wouldn't know anything about if I told you "Yes," or "No" to that.

Q. Do all of your foreign shipments go through the Port of San Francisco? [706]

A. Yes.

Mr. St. Sure: We like to think we have a port over here too—go through San Francisco Bay.

The Witness: You mean the Bay area?

Q. (By Mr. Edises) The Bay area.

A. Yes.

Q. And all your foreign shipments are declared at the Customs House at San Francisco?

A. Yes, I am satisfied that they are.

Q. In other words, you don't ship out through any other ports, other than the Bay region?

A. No, we do not.

Q. Of course you understand that San Francisco is headquarters of this Customs House district?

(Testimony of R. F. Williams.)

A. Yes, the declarations are made through San Francisco.

Q. And all of your intercoastal shipments by water are likewise through the Port of San Francisco in this Bay area, is that correct?

A. Yes.

Q. I am just checking a bit further. Do you pack pineapples?

A. No.

Q. Berries?

A. No.

Q. Apples? [707]

A. No.

Q. Fruit cocktail?

A. No.

Q. Citrus juices?

A. No.

Q. Plums or prunes?

A. Plums, yes.

Q. Did you pack plums at your Oakland plant?

A. Yes.

Q. About what percentage of your pack would be for plums?

A. Less than one per cent.

Q. Figs?

A. No.

Q. And dealing now with vegetables, do you pack peas?

A. Yes.

Q. About what percentage of your vegetable pack is peas?

A. Somewhere between five and ten per cent.

Q. And asparagus you mentioned.

A. Yes.

Q. And about what proportion of the total pack is asparagus?

A. I think I stated before that it was around two per cent or three per cent, wasn't it?

Mr. St. Sure: Two per cent I think you said.

The Witness: Yes. [708]

Q. (By Mr. Edises) Is most of the asparagus shipped out, or moved outside the state of California—and that is a large export pack?

A. I think I have given you the percentage heretofore with respect to asparagus.

Q. About 85 per cent or better?

A. Yes.

Q. How about snap beans?

A. No.

Q. You don't pack any snap beans?

A. No.

Q. Corn?

A. No.

Q. Root vegetables?

A. No.

Q. Or pumpkin or squash?

A. No.

Q. Sauerkraut?

A. No.

Q. Pimentos?

A. No.

Q. One further question, or two. As far as the employment of the warehouse workers is concerned, the men have testified that if they worked at Santa

(Testimony of R. F. Williams.)

Cruz they were, from time to time, sent over to help Stokely; and if they worked [709] at Stokely, they were from time to time sent over to help at the Santa Cruz warehouse. Is that your practice?

A. As I told you heretofore, I think that the foremen have been instructed, as far as possible, to keep these men employed rather than to throw them out of employment, and I think that they do have arrangements between themselves whereby they take one another's men so as to spread the work as far as possible without going into the——

Q. (Interrupting) Yes, but I am referring not so much to the question of when a man is about to be discharged, but when there are slack periods at Stokely's.

A. That is, as far as we are concerned, the same thing. We are talking about hours of employment. Most of these men want as many hours as possible.

Q. And Mr. Remington is your general superintendent?

A. Yes sir.

Q. And he is in charge of the Stokely warehouse and the Santa Cruz warehouse; is that correct?

A. That is correct.

Q. And you are his immediate superior, are you not?

A. Well, when you said Mr. Remington is in charge of the Stokely warehouse——

Q. (Interrupting) As far as employment is concerned.

A. The Stokely Company have an executive on the Pacific Coast. [710]

(Testimony of R. F. Williams.)

Q. I mean as far as the direct running of the warehouse is concerned.

A. It is under the Stokely foreman.

Q. Who is their foreman?

A. Stanley Morris.

Q. But Mr. Morris, nevertheless, is under the general supervision, is he not, of either Mr. Remington or Mr. Huddleson or yourself?

A. Well, I would say, technically, no; but to all purposes probably yes. In other words, any supervisory work that we do for them is in the nature of not taking up the executive's time that is out here to look out after it.

Q. All the men employed in the different warehouses, the Stokely warehouse and the Santa Cruz warehouse, are all paid by Santa Cruz Fruit Packing Company checks, is that correct?

A. I think they are paid by Santa Cruz checks and the checks are exchanged at the end of the week. In other words, we do it for convenience; again, it is merely a matter of accounting for them.

Q. And when Mr. Huddleson, for example, had occasion to speak to the men, that was on Monday, August 5th, he called in the men from the Stokely and the Santa Cruz warehouses both. In other words, it seems to be true, is it not, that as far as the employment of the men is [711] concerned, both Stokely and Santa Cruz warehouses are something of a unit?

A. Well, with that one exception, that the foreman in the Stokely warehouse does the employing

(Testimony of R. F. Williams.)

and has the right to discharge any of the men in that particular warehouse.

Q. All other features pertaining to the employment of the men, other than the fact that San Morris works for Stokely, both of the warehouses are operated as a unit, is that true?

A. No, no they are not, because——

Q. (Interrupting) As far as employment is concerned.

A. The employment is done practically together in that character of labor. The employment is done by the foreman, by the warehouse man, the foreman, and they would have charge of the employment.

Q. You have now contracted out the warehouse labor?

A. I think Mr. Huddleson has a contract, of which you have a copy.

Q. And the contractor is Mr. Manuel Gomez, is that correct?

A. Yes.

Q. And that contract was made by Mr.——

Mr. St. Sure: (Interrupting) You have a copy of it, I think.

Mr. Edises: Yes. [712]

Q. (By Mr. Edises) Mr. Gomez is in charge of labor at both the Stokely and Santa Cruz warehouse, is he not?

A. I believe he is.

Q. And there was just the one contract made with Mr. Gomez?

(Testimony of R. F. Williams.)

A. As far as I know, yes. I don't know that they have any other contract covering the other warehouse.

Q. You would know, would you not, if some Stokely representative had come and contracted independently with Gomez in regard to the Stokely warehouse?

A. I think I would.

Q. There hasn't been such a contract made?

A. No suggestion of that sort made to me, no.

Q. And as far as you know, the contract which was entered into between the Santa Cruz Fruit Packing Company and Manuel Gomez, and signed by E. E. Huddleson and M. T. Gomez applies to the labor at the Stokely warehouse as well as at the Santa Cruz warehouse?

A. I think it does, but I am not positive about it.

Q. You would know, of course, if there were such a contract entered into, would you not?

A. Yes, I think I would.

Mr. Edises: We offer the contract in evidence as Board's Exhibit No. 17.

Mr. St. Sure: Again, subject to the same objections previously made—a copy of which contract we furnished to [713] the Board. We do not question the fact that the copy is offered, but we do reserve the same objections as previously made to the other testimony and evidence offered.

Mr. Edises: It will be stipulated that this is a true and correct copy of the original contract entered into in regard to the warehouse labor between

(Testimony of R. F. Williams.)

the Santa Cruz Fruit Packing Company and Manuel Gomez?

Mr. St. Sure: Yes.

Trial Examiner Traynor: Admitted as Board's Exhibit No. 17.

(The copy of contract referred to was received in evidence and marked Board's Exhibit No. 17, Witness Williams.)

Q. (By Mr. Edises) It is a fact, is it not, that Mr. Gomez at the present time employs his own men in both warehouses, Stokely and Santa Cruz?

A. Yes, I think that is true.

Q. And has been doing so since what date?

A. Since the date of his contract. I don't recall the date myself.

Q. Which is the 7th day of August, 1935?

A. Yes.

Mr. Edises: I think that is all. Thank you very much, Mr. Williams.

Mr. St. Sure: No questions. [714]

Trial Examiner Traynor: We will recess until 2:30.

(Thereupon, at 1:00 o'clock p. m., a recess was taken until 2:30 o'clock p. m.) [715]

After Recess.

(The hearing was resumed at 2:30 o'clock p. m., pursuant to the taking of recess.)

Trial Examiner Traynor: Are counsel ready?

Mr. Edises: Yes, Mr. Examiner.

Mr. St. Sure: Ready, Mr. Examiner.

Mr. Edises: Mr. Ellis.

FERN ELLIS,

called as a witness for the National Labor Relations Board, having been previously duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Edises) What is your name?

A. Fern Ellis.

Q. Where do you live?

A. 2616 East 11th Street, Oakland.

Q. Are you married?

A. Yes.

Q. Any children?

A. One.

Q. When did you go to work for Stokely?

A. Two years ago; a couple of seasons ago.

Q. Who hired you?

A. Joe Remington hired me.

Q. Who is he?

A. The superintendent out there. [716]

Q. He hired you to work at the Stokely plant, is that correct?

A. No, he hired me to work at the Santa Cruz plant out in front; that is, the preparation. Then I went out to Stokely later on.

Q. How did you happen to go over to Stokely?

A. Well, I was just sent over there.

Q. Who sent you?

(Testimony of Fern Ellis.)

A. I was hired over there.

Q. Were you rehired?

A. No, more or less transferred.

Q. Do you know who transferred you?

A. Stan Morris, he just gave me a job.

Q. He told you to come over?

A. Yes.

Q. You kept getting the same type of pay check, did you?

A. Yes.

Q. And the check had Santa Cruz Fruit Packing Company's name on it?

A. Yes.

Q. What was your job around the warehouse?

A. Just everything.

Q. Shifted from one job to another as the occasion required?

A. Yes. [717]

Q. Did you at various times do loading?

A. Yes.

Q. Did you load trucks with goods that were destined for the dock?

A. Yes.

Q. Did you likewise load box cars?

A. Yes.

Q. When did you apply for membership in the union?

A. In the latter part of July.

Q. What did you join the union for?

A. Well, for better working conditions, more money.

(Testimony of Fern Ellis.)

Q. What did you think the union could do for you in that connection?

A. Well, when men are organized they can do more.

Q. Did you expect the union to represent you in negotiations with the company?

A. Yes.

Q. What were the chief working conditions that you were concerned about?

A. The chief working conditions—well, what do you mean?

Q. Well, were you chiefly interested in shorter hours?

A. Yes.

Q. And higher wages?

A. Yes. [718]

Q. Anything else other than those?

A. That is all.

Q. Those were the chief items?

A. Yes.

Q. When did you get your union button?

A. Well, it was around about the 4th or 5th of August, I guess; something like that. I don't remember just exactly.

Q. You don't remember exactly when?

A. No.

Q. Were you present on Monday when Mr. Huddleson spoke to a group of the men?

A. No.

Q. Now, from the time that you first applied for membership in the union, until Thursday, August 7th, when the men were locked out, did you hear

(Testimony of Fern Ellis.)

the men discuss, urge, or advocate a strike or a walkout at the Santa Cruz plant?

A. No sir.

Q. Was that ever brought up at a meeting officially?

A. No sir.

Q. Or unofficially?

A. No sir.

Q. Did you ever hear any such action suggested as a means of action for the union?

A. No sir.

Q. In connection with winning their demands?

[719]

Q. Did you hear about the Monday night meeting shortly after it occurred?

A. Yes.

Q. Do you remember who told you about it?

A. No, the boys were just talking about it.

Q. What did they say had taken place at the meeting?

A. He told them he couldn't pay, and wouldn't be the goat. He couldn't be the first one to pay, or something like that.

Q. Do you remember whether they stated anything about what he had said about the union?

A. Well, some of the boys said he wouldn't have the union around his plant, or something like that.

Q. Did they state that he had said that?

A. Well, I understood it that way.

(Testimony of Fern Ellis.)

Q. Did they tell you anything about Mr. Huddleson's having given the men a couple of days to think it over?

A. Yes, they said that.

Q. What did you understand they were to think over?

A. Well, whether they—whether to quit or go on working.

Q. You say you went to the initiation meeting Wednesday night. Is that correct?

A. Yes.

Q. When did you first learn there was to be a meeting that night?

A. Well, it was a day or two before the meeting. [720]

Q. Do you remember who told you?

A. Yes.

Q. Who?

A. Bob Anger.

Q. Now, did you at any time have a talk with Mr. Anger, or a conversation with him, in which he told you about what time that the men were to get off on Wednesday to go to the meeting.

A. Yes, he said at 4:30.

Q. When did you have that conversation?

A. It was at noon; I don't remember when we were talking about it.

Q. Was it the same day as the initiation meeting?

A. It was the same time, or the day before.

Q. What did he tell you in that connection?

(Testimony of Fern Ellis.)

A. He told me that he was going to see Toresen, and tell him about it; and then later on he told me he did tell him.

Q. What did he say Toresen had said, if anything?

A. He didn't say what Toresen had said. He said he told Toresen they were going to get off at 4:30.

Q. Can you remember the exact words that he used in telling you about getting off?

A. No.

Q. Did you understand that you had gotten permission to get off? [721]

A. Yes.

Q. Now, what time did you knock off on Wednesday?

A. Knocked off at 4:30.

Q. Was that because you had gotten permission to knock off at 4:30 on account of the meeting?

A. No, we was through with work.

Q. How did you determine when you were through for the day?

A. Well, we usually—if it is not in the season, we don't work so many hours, unless we work over at Santa Cruz.

Q. You worked on the Stokely side?

A. Yes.

Q. Who checked you out that day?

A. Manuel Frates.

Q. Who is he?

A. Assistant foreman.

(Testimony of Fern Ellis.)

Q. He checked you out every day?

A. Yes.

Q. And your checking out had nothing to do with going to the meeting that night?

A. No.

Q. Did you go to the meeting?

A. Yes.

Mr. Edises: Pardon me. You stated that you had.

Q. (By Mr. Edises) What time did you get to the meeting?

A. Well, I judge around 8:30, or nine. [722]

Q. How long did the meeting last?

A. About an hour and a half.

Q. Do you remember what was said and done at the meeting?

A. Well, they read the agreement.

Q. Do you remember who read it?

A. I think it was Bob Anger.

Q. Bob Anger?

A. Yes.

Q. Was there any discussion of the agreement, or its terms afterwards?

A. I don't remember if there was.

Q. What else was said then?

A. Then they initiated us.

Q. Did various union officials make speeches?

A. No, no.

Q. Well, the men were addressed, were they not, by various persons?

A. Yes.

Q. Who made the address?

(Testimony of Fern Ellis.)

A. Mr. Woods.

Q. Who else?

A. Mr. Tarling.

Q. Who is Mr. Tarling?

A. He was one of the fellows that was there.

Q. What did they discuss, or what did they tell you, talk [723] to you about?

A. I don't remember everything. I think it was Mr. Woods who said they wanted to get the meeting through in order that the fellows could go back to work, the night shift.

Q. Did he state specifically who was to go back to work?

A. It was understood the night shift.

Q. Was that all of the night shift, or just certain sections of the night shift?

A. I don't know anything of the night shift because I didn't work on that side.

Q. During and after the meeting did you expect to be able to return to work the following morning as usual?

A. Yes.

Q. Now, was there any discussion at this meeting of Mr. Huddleson's statement that the men would have to go with him or go with the union, or any discussion about his speech to the boys on Monday night, that you remember?

A. No, I don't remember if there was.

Q. Did Mr. Woods and Mr. Tarling tell you anything about the beneficial affects of union activities and things of that sort?

(Testimony of Fern Ellis.)

A. No.

Q. Then do you remember what they talked about? They must have said something in addition to the formal initiation. [724]

A. They said they were going to take the agreement out and send it to him, or something like that.

Q. Do you remember whether it was stated that the agreement had already been sent or not?

A. Maybe they had already sent it; I don't remember just what they said about the agreement.

Q. What was done—what was the chief activity during that meeting, other than the initiation? What was the chief subject of conversation, if you can remember?

A. Well, there was just more or less of a—well, they just initiated us, I guess; that was what we were there for.

Q. Was it a formal meeting? Was there a chairman presiding?

A. I guess Mr. Woods acted as chairman, I don't know.

Q. Was there a discussion from the floor from the members?

A. No; I don't remember if there was.

Q. Is it your impression that the larger part of the meeting was taken up with discussing this point in regard to the agreement, and so on?

A. Yes, and then the initiation.

Q. And then the initiation?

A. Yes, and that was all.

Q. Were the terms of the agreement discussed?

(Testimony of Fern Ellis.)

A. Well, he read it, but I don't remember what he said.

Q. Have you ever belonged to a union before? [725]

A. No sir.

Q. Did you know anything about union activities previously?

A. No sir.

Q. Did you show up for work the following morning?

A. Yes.

Q. What time did you get there?

A. It was around 7:30, I guess.

Q. What did you find, and what did you do after you got there?

A. The watchman said, "No work." Those were his orders.

Q. What was that?

A. He said, "No work; orders."

Q. Did he say who he got the orders from?

A. No, he didn't say.

Q. Did you find the picket line already established when you got there?

A. No, not yet it wasn't.

Q. Did any one seem to be in charge of the men in front of the plant that morning?

A. No.

Q. Were any of the union leaders there?

A. No.

Q. Was Mr. Anger there?

A. Yes, I think he was.

(Testimony of Fern Ellis.)

Q. Mr. Anger was the organizer, was he not? [726]

A. I think so.

Q. Did you serve on the picket line?

A. Who was that?

Q. Did you do any picket duty?

A. Yes. Oh, me? Yes.

Q. How long?

A. All the time.

Q. During the entire time that the line was established?

A. Yes.

Q. Did you ever commit any act of force or violence against any truck driver or any employe at the Santa Cruz plant?

A. No sir.

Q. Were you ever instructed by the union to commit any act of force or violence?

A. No sir.

Q. What did you do as a picket?

A. Well, we just walked up and down 14th Street, and stopped trucks.

Q. When you say "stopped trucks," what do you mean?

A. Oh, just held up our hands and said, "Stop."

Q. You didn't throw any rocks at the windshield?

A. No.

Q. What did you say to the truck drivers?

A. Well, we told them there was a picket line there. [727]

(Testimony of Fern Ellis.)

Q. What did these drivers do?

A. Well, some of them had gone in; others would turn around and go back.

Q. What did you do about the ones who turned and went in?

A. Nothing.

Q. If the Board orders your reinstatement, will you take your job back?

A. Yes sir.

Mr. St. Sure: No questions.

Mr. Edises: That is all.

Trial Examiner Traynor: That is all.

(Witness excused.)

Mr. Edises: Mr. Carmo.

JOE CARMO,

called as a witness for the National Labor Relations Board, being first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Edises) What is your name?

A. Joe Carmo.

Q. Where do you live?

A. 6109 Eastlawn Street, Oakland.

Q. Are you married?

A. Yes.

Q. Any children?

A. Two [728]

(Testimony of Joe Carmo.)

A. Two.

Q. How old?

A. 11 and 10.

Q. Who did you work for, Santa Cruz or Stokely?

A. I worked in both places.

Q. Where did you first go to work?

A. I got hired at Stokely.

Q. Who hired you?

A. Mr. Morris.

Q. You were later transferred to Santa Cruz?

A. Well, I used to work for both of them. I used to run the labeling machine. They were short at one end, I was transferred back and forth.

Q. You were transferred back and forth?

A. Yes.

Q. Did you do general warehouse work?

A. Mostly running the labeling machine, but when there was no labeling to do, I used to load trucks and general warehouse work.

Q. Did you likewise load box cars?

A. Everything.

Q. When did you apply for membership in the union?

A. Well, as closely as I can recall, about two weeks before the lockout?

Q. And through whom did you apply?

A. Mr. Bob Anger. [729]

Q. What led you to apply for membership in the union?

(Testimony of Joe Carmo.)

A. Well, we were working for 35 cents an hour. He told me the terms of the union.

Q. What do you mean he told you the terms of the union?

A. Well, the union regulations called for better terms, better wages.

Q. What did the union regulations call for?

A. Well, something like 62½ cents an hour, and eight hours a day.

Q. How many hours a week?

A. About 48, I think.

Q. You say about 48?

A. Yes.

Q. Are you sure of that?

A. I am pretty sure; I am pretty sure it was 48.

Q. Who told you about the terms of the union?

A. Mr. Anger.

Q. What did you expect the union to do for you?

A. Well, I expected them to take it up with Mr. Huddleson, bring the terms to him, and see if we could get together and arbitrate.

Q. You mean negotiate?

A. Yes, something like that.

Q. When did you get your union button?

A. I think it was on a Monday morning. [730]

Q. Was that August 5th?

A. Well, that is before the lockout, about August 5th.

Q. Two or three days before the lockout?

(Testimony of Joe Carmo.)

A. Yes.

Q. On a Monday?

A. Yes, on a Monday.

Q. Were you there Monday when Mr. Huddleson spoke to the boys?

A. Yes sir.

Q. Who told you about it at the Stokely warehouse? Were you working at Stokely or Santa Cruz?

A. I was at Santa Cruz.

Q. Who told you about it?

A. Well, we went out to supper and were supposed to come back that night. We got in there. Mr. Toresen told us to just wait awhile and Mr. Huddleson will talk to us, and to get everybody together.

Q. Where was this meeting held?

A. Right next to the warehouse office, between the printing machine and the warehouse office.

Q. How many men were there?

A. Thirty-five or forty men.

Q. Now, as closely as you can recall, tell us just what was said and done at that meeting.

A. You mean what Mr. Huddleson said? [731]

Q. What Mr. Huddleson said, and so forth.

A. Well, I remember him saying he knew that we were trying to organize a union. He got notice from the union about two or three days before, about that, since the following Friday, the Friday before.

(Testimony of Joe Carmo.)

Q. He said he got—he said he had gotten notice from the union?

A. The Friday before that; he knew just what we were going to do. He said as far as joining the union, it was O. K. He was a union man himself in former years, but as far as he had anything to do with the cannery, he would have nothing to do with the union. That is the way he put it up to us. He gave us two days to think it over.

He said, "Throw away your buttons and you can have your jobs."

Q. Did he say anything about a contractor?

A. He said he could get a contractor there to do the work for about half a cent less than he was having it done for now. He said, "If you boys walk out, I will have a contractor here to do your job cheaper than I can have it done now."

Q. Did he say that he knew what the wage scale of the union was?

A. He said he had notice from the union, and he had some kind of an agreement received through them, or [732] something like that—the agreement of the union terms and everything. He said he had gotten that on the Friday before.

Q. Did he say anything that would indicate that he knew what the union was asking?

A. The way he talked, I think he did.

Q. Didn't he state he knew the union was asking for 62½ cents?

A. I don't remember him mentioning the exact amount.

(Testimony of Joe Carmo.)

Q. You say he gave you two or three days to think it over?

A. A couple of days to think it over.

Q. Did he tell you that you had to make up your minds by a certain time?

A. Yes. "I give you a couple of days to make up your minds; either throw your buttons away, stay on your work; otherwise get somebody else to take your place."

Q. I guess I don't make myself clear. You have used the phrase "a couple of days." But did he state that you boys must make up your minds by such and such a time, a specific time?

A. No certain time.

Q. He just said, "a couple of days." Is that correct?

A. A couple of days.

Q. Do you know Mr. Gomez?

A. I seen him around. He was pointed out to me. [733]

Q. When?

A. About two or three days before the lock-out. Monday, I imagine it was. Monday, I imagine was the first time I seen him around there.

Q. Who pointed him out to you?

A. One of the boys, I don't know who it was. They told me he was supposed to be the contractor coming in there.

Q. Do you know who told you that?

A. I think Bob told me.

(Testimony of Joe Carmo.)

Q. Was that after the meeting in which Mr. Huddleson spoke to the men or before?

A. That was before the meeting; it was in the morning.

Q. And what did you see Gomez doing?

A. Just walking around, taking a look. Looking things over, the label machines, tags, papers, and so forth.

Q. Had you ever seen him around the plant before Monday?

A. Not before Monday.

Q. Did you see him on Tuesday?

A. I seen him Tuesday and Wednesday.

Q. Did you see him in any of the offices of the plant on any of those days?

A. I seen him in Mr. Toresen's warehouse office.

Q. Talking to Mr. Toresen?

A. Yes.

Q. What day was that? [734]

A. I think it was on a Tuesday, sometime Tuesday, I don't know whether in the morning or afternoon, sometime Tuesday I saw him in there.

Q. And you went to the initiation meeting Wednesday night?

A. I did.

Q. Who told you about the meeting?

A. Bob Anger told me that we were going to have a meeting Wednesday night. Told me that about Tuesday.

Q. Do you know if Mr. Anger ever told you anything about whether or not he had gotten permission to get off?

(Testimony of Joe Carmo.)

A. Yes, he did.

Q. When did he tell you that?

A. He told me that Wednesday morning.

Q. What did he say?

A. Well, he said he went up to Mr. Toresen and asked him for permission to get off that day about 4:30, and he said Toresen told him, "That is fine, Bob; I am glad you told me. Go ahead! I know just what to do."

Q. Did Mr. Anger tell you all that?

A. He did.

Q. You are not adding anything to it as a result of what you have heard the men say?

A. That is just what he told me. He asked Mr. Toresen, and Toresen said, "It's O. K., Bob, I am glad you told me."

Q. By the way, do you know why it was necessary for the men [735] to get off at 4:30 when the meeting wasn't until eight?

A. Well, I couldn't tell you why, but I thought we would get out early, get home, get ready before the meeting.

Q. Is it true a lot of men live out in San Leandro?

A. They do, and some live out in Hayward.

Q. Do you remember just what took place at the meeting Wednesday night?

A. Well, the meeting was—the principal thing was to initiate the boys, pay all the dues, so far as I can remember.

(Testimony of Joe Carmo.)

Q. Do you remember anything else? Was the agreement read at that time?

A. The agreement was read.

Q. Do you know who read it?

A. I think it was Mr. Woods.

Q. You think it was Mr. Woods?

A. Yes.

Q. Are you positive of that?

A. Well, I am pretty sure it was Mr. Woods.

Q. When did you first meet Mr. Woods?

A. The night of the meeting.

Q. The night of the meeting?

A. Wednesday night.

Q. Now, was there any discussion about the agreement?

A. Well, he told us he had been to see Mr. Huddleson.

Q. Woods said that? [736]

A. Woods said that. They were going out to see him, to see if they could get together and get some kind of an agreement between us and Mr. Huddleson.

Q. Did Mr. Anger take part in the meeting?

A. Not that I can remember.

Q. He was there, however, was he not?

A. He was there.

Q. What else was said about the agreement, if you remember? Were its terms discussed by the men?

A. At the meeting?

Q. Yes.

(Testimony of Joe Carmo.)

A. No, not by the men, because we kind of left all that up to Mr. Woods. He was our representative, and we left everything up to him. He was to represent us to Mr. Huddleson.

Q. Had you ever belonged to a union before?

A. I never did.

Q. Know anything about unions?

A. Well, I don't—I didn't know until then.

Q. Now, from the time that you first applied for membership in the union, around the middle of July, I understand, until Thursday morning, August 8th, when you were locked out, did you ever hear—was there any discussion among the men either at the union meeting or informally about a walkout or a strike at the Santa Cruz plant?

A. Not that I recall; never heard anything. [737]

Q. When you were at the meeting Wednesday night did you expect to go to work as usual the next morning?

A. Well, I was told to go back to work as usual.

Q. Who told you?

A. Mr. Woods, and Mr. Tarling.

Q. Do you remember when he said that?

A. Right at the end of the meeting, he told us boys to go back to work as if nothing had happened.

Q. You say "as if nothing had happened," what do you mean by that?

A. Well, as if we hadn't joined the union.

Q. Was there any doubt about your being permitted not to go back to work?

(Testimony of Joe Carmo.)

A. Not that I know anything about.

Q. By attending the meeting Wednesday night, did that cause you any doubt as to whether you would be permitted to return to work the next day?

A. Not to me.

Q. Did you show up the next morning?

A. I did.

Q. About what time?

A. About 7:30, a quarter to eight.

Q. What did you find when you got there?

A. When I got there I found all the boys out, I didn't get nowheres near the place. I got pretty close and they told me there was no use going any further. [738]

Q. Who told you?

A. Well, some of the boys who had been at the meeting the night before. I don't recall who it was.

Q. Did you do picket duty?

A. I did.

Q. What were your duties in that connection? What were you supposed to do?

A. We were supposed to stop any union men and tell them what was going on, tell them there was a lockout there and stop them whether they wanted to go in or not.

Q. How did you stop them?

A. Well, we just flagged them, we flagged the teamsters.

Q. Did you flag any trucks that were not driven by union drivers?

(Testimony of Joe Carmo.)

A. Well, we used to flag every truck. We didn't know whether they were or not until we stopped and talked to them.

Q. Did you ask them not to go through the picket lines?

A. Well, we told them there was a picket line there.

Q. Did you ever tell them they had better watch out if they did go through?

A. No, we didn't threaten any one.

Q. Do you know if any one else did?

A. Not that I know.

Q. If the Board orders your reinstatement, will you take your job back? [739]

A. I certainly will.

Mr. Edises: That is all.

Mr. St. Sure: I have no questions.

Mr. Edises: That is all.

Trial Examiner Traynor: That is all.

(The witness excused.)

Mr. Edises: I would like to offer in evidence time cards for the Santa Cruz Fruit Packing Company for the dates August 6th, 1935, August 7th, 1935, and August 8th, 1935. The cards for the last two days have the "Santa Cruz Fruit Packing Company" clipped off at the end, and the name Manuel Gomez stamped upon them.

Apparently, the first time punched on the cards for August 7th is 6 p. m., with the exception of *the* of Joe Ferrerra, which is first punched 7 p. m.

The names of Lee Long, Sam Lew, and Gee Chong appear on these cards for the 7th.

Do you know whether those names referred to——

Mr. St. Sure (Interrupting) They sound like Chinese names to me. I understand that there were two or three Chinamen that were working there after the contractor took it over; but the information is that they are not there now. I state, as a matter of information, there was an assistant superintendent, a Chinaman, a California graduate, and a man who had [740] been there a good many years. How relevant that is, I don't know.

Mr. Edises: Personally, my singling out these Chinese names has no derogatory indication, however.

May I likewise introduce the cards for the 5th of August and the 9th?

Trial Examiner Traynor: These cards will be Board's Exhibit No. 19.

(The time cards referred to for the 5th, 6th, 7th, 8th and 9th of August, were received in evidence and marked Board's Exhibit No. 19.)

Mr. Edises: I have here a copy of the letter dated August 31, 1935, addressed to Mr. Charles Real and Mr. W. M. Spooner.

Do you have the original of that letter?

Mr. St. Sure: No, I haven't the original.

Mr. Edises: Do you know whether this is a true copy?

Mr. St. Sure: I think it is a true copy. I think we furnished it to you, but subject to the same objections as the time cards and other things, we will stipulate it is a correct copy delivered personally to the men to whom it was addressed.

We can identify them as W. M. Spooner, who was secretary of the Central Labor Council of Alameda, and Charles Real, secretary of the Teamsters' Local, of the Local Federation of [741] Labor, Local No. 70, I think it is.

Mr. Edises: I offer this in evidence as a copy stipulated to me to be an exact copy of the original addressed to the parties just indicated.

Trial Examiner Traynor: It may be received as Board's Exhibit No. 20.

(The letter referred to was received in evidence and marked Board's Exhibit No. 20.)

Mr. Edises: There is a pencil underlining of a portion of the letter which was not in the original as it was handed to us. It is simply my own marking put in later.

Also, I would like to offer in evidence seller's copy of Santa Cruz Continental Europe Canned Food Contract. I believe the British Isles and domestic contracts are in evidence but I failed to introduce that one.

Trial Examiner Traynor: Board's Exhibit No. 21.

(The document referred to, seller's copy of Santa Cruz Continental Europe Canned Foods Contract was received in evidence and marked Board's Exhibit No. 21.)

Mr. Edises: I wish to offer in evidence a certified copy——

Mr. St. Sure: (Interrupting) May I ask your purpose in that, Mr. Edises? I am just a little in the dark as to what that may have to do with this situation. I wonder what your purpose is in making the offer. [742]

Mr. Edises: It is simply a part of the general background of economic data which the decision of the Supreme Court indicate are properly introduced in cases of this kind, in which one of the elements entering into the determination of the constitutionality of the act is the economic background, and the economic justification of that.

Mr. St. Sure: (Examining document) This apparently, what you were talking about, is a certificate from the Department of Labor, and showing a compilation of the number of strikes and lockouts, number of workers involved, the man-days of idleness during 1934, January to July inclusive, July 1935.

I don't see whether these reported strikes or lockouts occurred, nor when, nor why.

Mr. Edises: My understanding is that it applies to the entire United States.

Trial Examiner Traynor: Any objection?

Mr. St. Sure: Well, if you think it has a place in the record, I have my usual objection, plus the objection I think that it is not material or relevant. I assume other questions that I may raise concerning it, that it is vague and indefinite, that it doesn't give anything definite. The other things go in, I suppose we might as well put this in.

Trial Examiner Traynor: Its bearing appears rather remote. [743]

Mr. St. Sure: If Mr. Edises thinks that it has a bearing, I have no desire to keep it out. The matter of relevancy appears, yet, if my objection is good, I suppose the varied lack of definite connection of the exhibit itself would take care of my objection. I mean, if it doesn't apply, I guess, in or out of the record, it doesn't apply.

Mr. Edises: Of course, any exhibit is only admissible for whatever weight that it has.

I would like to offer this in evidence.

Trial Examiner Traynor: All right, exhibit offered is 22.

Mr. Edises: It is a true copy of original data in regard to strikes and lockouts in the canning and preserving industry in the United States in 1934 and in January to July, 1935, by major issues involved. The original data is on file in the Bureau of Labor Statistics.

Mr. St. Sure: I simply like to point out this further ground of objection which may not be a valid one, but may be a practical one. The source of the data is not revealed. I have seen these forms

which are sent out by the Department of Labor, this particular division, which are sent out, broadcast to industry and, I suppose, labor organizations are alike, without having some knowledge of the source of the information. I suspect they are not very complete, and perhaps not to accurate. However, again, as I say, perhaps I am building [744] straw-men, because I don't think that it is material in this issue in any event.

Mr. Edises: Isador Lubin is Minister of Labor Statistics, and there is no question, I suppose, in your mind that these are official figures?

Mr. St. Sure: There is no question in my mind that it is a compilation of data on file. He doesn't certify that he has verified the data, or anything else. It is in for what it may be worth.

(The document referred to, a compilation of Bureau of Labor Statistics, was received in evidence and marked Board's Exhibit 22.)

Mr. Edises: I would like to offer in evidence a duly authenticated and verified copy of the trade mark declaration, or a trade mark declaration, of the Santa Cruz Fruit Packing Company, in particular the passage in said declaration taken over the signature of R. M. Gaddis, secretary of the Santa Cruz Fruit Packing Company, that said trade mark is used by said corporation in commerce among the several States of the United States.

Mr. St. Sure: What does the trade mark refer to, do you know?

Mr. Edises: No, it doesn't appear which particular one. I presume you have a number of them, is that correct? [745]

Mr. St. Sure: I presume they have. I am wondering what that might be. It may be, or may not—apparently, I don't know what that may refer to, what trade mark or certificate it may be a declaration of. I do not know whether it applies to all or only one of the trade marks that the Fruit Company has, whether it relates to some particular brand or product, I don't know; or whether it is a product that is not in use.

Mr. Edises: Well, I offer this for what it is worth.

Trial Examiner Traynor: It may be received as Board's Exhibit No. 23.

(The trade mark certificate referred to was received in evidence and marked Board's Exhibit No. 23.)

Mr. Edises: I submit herewith in evidence a four-page mimeographed compilation headed, "California Pack Statistics for 1934." These statistics are compiled and made available by the Canners' League of California through their statistical department, which is under the supervision of Miss Sylvia Kempton. The figures are generally accepted in the trade as being accurate, and I am able to state with my own knowledge as a result of my conversation with Miss Kempton, who is the statistician, that every effort is made to obtain as complete a statistical showing as possible.

The exhibit itself states how the statistics were [746] compiled, namely, all figures were compiled by the Canners' League of California from individual reports of canners in both Northern and Southern California. Reports were received from canners representing in excess of 99 per cent of the pack, and a careful estimate was made of the negligible pack not reported. The cling peach pack, as shown herein, represents the final figures for the state as compiled by the California Cling Peach Control Committee (1934) period. The asparagus pack represents the final figures for the state as compiled by the California Canning Asparagus Control Committee.

Mr. St. Sure has informed me that he will offer no objection as to the foundation for those figures, confining his objection to the same grounds hitherto.

Mr. St. Sure: May I ask what purpose you offer this for, Mr. Edises? There are a lot of things apparently irrelevant. Did you think this also forms a picture of the industry?

Mr. Edises: Yes, this forms a picture of the industry.

Mr. St. Sure: This relates to 1934. There is no question the Canners' League, the trade organization which has, I assume, reputable statisticians. Mr. Williams states the Santa Cruz report does not refer to it. I don't think that necessarily means the statistics are not as accurate as the materials they have. I won't object to the matter. I say my objection does go to a lack of foundation being made. [747] I state the objection in addition to

those I have made heretofore as to materiality and relevancy. Those are more formal objections than the other.

Mr. Edises: You are not offering any objection as to the accuracy of the figures?

Mr. St. Sure No, I don't want to stipulate they are accurate, but I assume they are accurate as they purport to be for the year 1934.

Mr. Edises: All right, I offer that in evidence.

Trial Examiner Traynor: It may be received as Board's No. 24.

(The pamphlet consisting of four pages of statistics was received in evidence and marked Board's Exhibit No. 24.)

Mr. Edises: The materials which I am offering in evidence at the present time are applicable not exclusively, of course, to the Santa Cruz Fruit Packing Company, but are intended to convey a picture of the scope and volume and extent and general nature and attributes of the fruit and vegetable canning industry in the State of California, and as much as possible the region in and around San Francisco Bay.

Mr. St. Sure: (Examining document) It purports to be a compilation of domestic exports of canned fruits and canned vegetables during 1933, listed according to customs districts. It is 1933, and in the second place it bears in addition to figures applicable to San Francisco, figures from about 20 or [748] 30 other ports. It embraces fruits, grapefruits, loganberries, cranberries, apples and applesauce, prunes, pineapples, fruits for

salads—so many things which, it seems to me are as remote to this case as some of the ports mentioned on this list here (indicating.)

Mr. Edises: The value of including the shipments through other customs districts is for the basis of furnishing a comparison between the volume of business handled by these others, these other customs districts and that handled through San Francisco, conveying a much clearer understanding of the importance of the Port of San Francisco and the region which contributes its products to this port, than would be possible by simply isolating the figures applicable to San Francisco alone.

Mr. St. Sure: Well, I make the same objections and the additional objection now that if I can stress the matter of remoteness, we are getting more and more remote.

Trial Examiner Traynor: It looks very remote to me.

Mr. Edises: I seriously question your statement of its remoteness. It is remote in a very limited sense, if we imagine the only issue in this case is the pure question of fact as to the circumstances under which the men were discharged; but as far as the issues of constitutionality are concerned, I think all of this economic data has a bearing. [749]

Mr. St. Sure: I want to be agreeable and waive objection to technical information, but I do not wish the record to be filled with material that I consider encroaches upon the question of being relevant.

My objection goes first, as to the matter of time, 1933; and second, on the matter of foundation, and the element of remoteness.

These figures and these schedules do not purport to show the various products from the port—I am just wondering whether or not San Francisco had the benefit of this compilation. Let me see! San Diego—well, I don't suppose it is going to serve any great purpose for us to discuss the question of whether this is remote; but I presume the weight to be given to it is again a matter for the Examiner to determine.

While I can agree with you that there is undoubtedly some reason for showing the economic background, as you say, of the industry, I question in my mind just how these things tie in, on what basis you argue for figures of this kind, and how they give any picture of the industry.

Mr. Edises: Certainly, these have a bearing on the question of the degree to which shipments of products produced in the industry are placed in commerce, do they not?

Mr. St. Sure: That, I don't know. That is my question. [750]

Mr. Edises: Well, I don't see how that is possible, for these figures are for domestic exports. Exports mean something definite. It means they are goods which are being shipped to foreign countries. A shipment is not designated as an export unless it is being shipped to some other port of the United States or some part of California. Moreover, the figures of the customs service apply

only to foreign commerce. The material is gathered as appears on the front cover from Foreign Commerce and Navigation of the United States, Calendar Year 1933, published by U. S. Department of Commerce, Bureau of Foreign and Domestic Commerce.

Will you agree to a stipulation, Mr. St. Sure, that this material may be introduced as of the same weight as the original source of the material?

Mr. St. Sure: I will agree to that, that that is an accurate compilation of a copy of the statistics compiled as indicated upon the cover from the sources as there stated.

Mr. Edises: That is the stipulation I would like to have. I introduce this as Board's Exhibit No. 25.

Trial Examiner Traynor: It may be admited as Board's Exhibit No. 25.

(The document referred to, entitled "Domestic Exports of Canned Fruits and Canned Vegetables During 1933, Listed According to Customs Districts," was received in evidence and marked Board's Exhibit No. 25.) [751]

Mr. Edises: I offer in evidence certain marked sections of document entitled, "Foreign, Noncontiguous and Intercoastal Tonnage San Francisco Customs District, by Commodities, January 1, 1934 to December 31, 1934." This is compiled by the Board of State Harbor Commissioners from Federal Customs Records.

The pertinent sections are underlined portions under the heading, "Intercoastal—Outbound," and

similarly marked sections under "Foreign and Non-contiguous Exports."

The purport of these figures is to show the quantities of canned fruit and canned vegetables shipped to foreign countries, and to other sections of the United States through San Francisco harbor during the year January 1, 1934 to December 31, 1934.

Mr. St. Sure: I make the same objections.

Mr. Edises: Will you waive any objections to foundation?

Mr. St. Sure: I make no objection as to foundation. I stipulate that the figures therein contained are an accurate compilation of the original, as they purport to be.

Trial Examiner Traynor: It may be received as Board's Exhibit No. 26.

(The document referred to was received in evidence and marked Board's Exhibit No. 26.) [752]

Mr. Edises: I would like to offer in evidence the same document dealing with the period January 1, 1933 to December 31, 1933, simply giving a two year picture of it.

Mr. St. Sure: I make the same objections, the same stipulation.

Mr. Edises: The pertinent sections are marked in ink and are found under the headings, "Intercoastal—Outbound" and "Foreign and Non-contiguous Exports".

Trial Examiner Traynor: Admitted as Board's Exhibit No. 27.

(The document referred to was received in evidence and marked Board's Exhibit No. 27.)

Mr. Edises: I wish to offer a pamphlet put out by the United States Department of Commerce and Bureau of the Census, taken from the Census of Manufacturers of 1933, and containing figures which give a picture of the canning and preserving industry of the United States, segregated according to commodity groups, and dealing with such matters as the number of establishments, the number of salaried employes, number of wage earners, average per year cost of materials, value of products, value added by manufacturer.

There is a likewise segregation according to states. The sections which I desire to have introduced in evidence are marked at the side by an inked line.

I offer this in evidence as Board's Exhibit.

Mr. St. Sure: Same objection; same stipulation.

[753]

Trial Examiner Traynor: Admitted as Board's Exhibit No. 28.

(The pamphlet referred to, entitled, "Census of Manufacturers: 1933", was received in evidence and marked Board's Exhibit No. 28)

Mr. Edises: I would like to offer in evidence a pamphlet which is an original publication of the United States Department of Commerce, and the Bureau of Foreign and Domestic Commerce, entitled Summary of United States Trade with World, 1934."

I do not wish to offer the whole of this, however, but simply the indicated sections on page four, page eight, page nine, page fourteen, page sixteen and seventeen and twenty-six.

This pamphlet shows, among other things, the relative importance of canned fruits, canned vegetables, the commodities that are of most importance in this case, as compared with other export commodities.

Mr. St. Sure: Yes, same objections; same stipulations.

Trial Examiner Traynor: It may be admitted as Board's Exhibit No. 29.

(The pamphlet referred to, entitled, "Summary of United States Trade with World, 1934," was received in evidence, and marked Board's Exhibit No. 29)

Mr. Edises: I would like to offer in evidence a [754] pamphlet put out by the University of California, College of Agriculture, compiled by the Giannini Foundation of Agricultural Economics.

I don't wish to offer in evidence the whole of this, but simply a table contained on page four dealing with the pack, carry over, shipments and f. o. b. prices of canned asparagus, California, for the years 1925-1935; and a similar pamphlet dealing with the same matters in regard to canned peaches, they being perhaps the two most important—or two of the most important—canned commodities.

Mr. St. Sure: The same objection; the same stipulation.

Trial Examiner Traynor: They may be received as Board's Exhibit No. 30.

(These pamphlets, referred to, two in number, contributions from the Giannini Foundation of Ag-

ricultural Economics, were received in evidence and marked as Board's Exhibit No. 30.)

Mr. Edises: I would like to offer in evidence certain sections of the "Monthly Summary of Foreign Commerce of the United States," an official publication of the United States Department of Commerce compiled by the Division of Foreign Trade Statistics.

This deals with foreign trade from the period January 1, to August — through the month of August, 1935. The pertinent sections are the marked passages on page seven, dealing [755] with exports of domestic merchandise; specifically, canned vegetables and canned fruits.

May that be introduced with the same stipulation and same objections?

Mr. St. Sure: Yes.

Trial Examiner Traynor: It may be admitted as Exhibit No. 31.

(The pamphlet referred to, "Monthly Summary of Foreign Commerce of the United States," was received in evidence and marked Board's Exhibit No. 31.)

Mr. Edises: And a similar document dealing with the year 1934, the section which I wish to introduce being contained on page seven and marked in blue ink.

The same stipulation, same objections?

Mr. St. Sure: Yes, thank you.

Trial Examiner Traynor: Exhibit 32.

(The pamphlet referred to, "Monthly Summary of Foreign Commerce of the United States, Decem-

ber 1934," was received in evidence and marked Board's Exhibit No. 32.)

Mr. Edises: For the purpose of giving the Examiner and opposing counsel a quick, birds'-eye view of some of these—

Mr. St. Sure: (Interrupting) We'll have some nice pictures, anyway.

Mr. Edises: (Continuing)—information contained in statistical form in certain of the other documents, I wish [756] to introduce a booklet put out by "Western Canner and Packer," a trade journal, containing illustrations or diagrams of figures largely taken from the 1933 United States Census of Manufactures; and also certain of the data obtained, according to Western Canner and Packer's statement in the following fashion:

"The data presented herewith is the result of a two year intensive study of the Western Canner and Packer industry. Every bit of information contained in this report has been gathered first-hand, and not from other books or publications, newspapers or clipping services, or by guess or hearsay, of the companies in the field."

Mr. St. Sure: Same objection; same stipulation.

Trial Examiner Traynor: It may be received as Board's Exhibit No. 33.

(The booklet refered to, a graphical presentation by "Western Canner and Packer," was received in evidence and marked Exhibit No. 33.)

Mr. Edises: I would like to offer in evidence the year book and statistical review number of "Western Canner and Packer," a trade publication. Much

of the information, statistical information, contained in this statistical number, is derived from the Canners' League; and I trust that Mr. St. Sure will be willing to make the same stipulation in regard to the data contained herein as he did in the material offered [757] from the Canners' League.

Mr. St. Sure: Same stipulation; same objections.

Mr. Edises: The passages which I desire to introduce in evidence are marked in two ways: First, by a side lining in ink; and second, by a slip of paper which possibly will not have as much permanence as the ink but will be useful in examination by the Examiner or by counsel.

The specific sections I wish to introduce are pages 26 and 27, 1934 production of canned, dried, frozen and preserved foods. However, the sections dealing with dried, frozen and preserved foods need not be considered in evidence.

On page 27, the section entitled, "Total Western Canned Fruit and Vegetable Packs," are from the period 1927—1934; a comparative fresh canned and dried fruit production chart, contained on page 28; estimated acreage—California fruit crops, on page 62; California canned fruit pack in cases, all sizes, page 64; movement and sales, canned fruits, page 68; cling peach sales and movement by quarterly periods, page 68; the section dealing specifically with peaches and the peach canning process on page 75; the pack statistics for peaches on page 76; comparative canning figures on page 76; comparing Northern California, Southern California, and other states of the Union, and other countries; the gen-

eral statement of peach canning season, and the peach canning process contained on page 81; the figures on "Movement of Goods," and [758] statements contained on the marked section, page 82; the figures on California canned apricots, packed, carry over, and exports, page 98; similar figures for canned pears, page 100; United States exports of canned fruits, by fiscal years, on page 102; Pacific Coast direct exports, canned fruits, and asparagus, page 103; Pacific Coast—and continued on page 104; rail shipments of canned fruits and vegetables, by fiscal years, and the number of tons, on page 104; California canned vegetable pack in cases, page 107; the table on page 108, "Movement and Sales, California Canned Vegetables;" the information and statistics on the canned tomato pack on page 117; likewise, the table on 118 in regard to the same; similar statements and tables on page 120 in regard to the canned asparagus pack; and the marked table on page 122 in regard to the canned spinach pack and acreage.

I offer this in evidence as Board's Exhibit. May it be stipulated—

Mr. St. Sure: (Interrupting) I have already made my stipulation and objection. They are the same.

Trial Examiner Traynor: Board's Exhibit No. 34.

(The year book, containing specific passages referred to, was received in evidence and marked Board's Exhibit No. 34.)

Mr. Edises: I offer in evidence a pamphlet put out by the University of California, College of Agri-

culture, Berkeley, [759] California, a contribution from the Giannini Foundation of Agricultural Economics, prepared by Professor H. R. Wellman, one of the leading authorities of the canning industry, certainly in California, and possibly in the United States.

I don't offer the whole of it in evidence, but I have gone through it and underlined the passages—

Mr. St. Sure (Interrupting) Put it all in.

Mr. Edises: All right, I have no objections. I offer the whole thing in evidence.

Mr. St. Sure: Is all this to be read into the record, or are we going to have to copy it in?

Trial Examiner Traynor: It isn't going to be copied into the record.

Mr. St. Sure: I stipulate these materials have been read into the record so we needn't have any question of their being copied into the record.

Mr. Edises: They don't type the exhibits into the records. If Mr. St. Sure wishes to have the entire thing in evidence, I am willing to do it, but there are a great many sections in there which have bearing. I have eliminated all of the sections in regard to the dried—

Mr. St. Sure: I don't want to suggest we go beyond where we are going.

Mr. Edises: I will offer in evidence simply the underlined [760] passages.

Trial Examiner Traynor: It may be received as Board's Exhibit No. 35.

(The pamphlet referred to, of which Professor H. R. Wellman is the author, was received in evidence and marked Board's Exhibit No. 35.)

Mr. Edises: The voluminous document that I have in may hands I do not wish to present in

toto, by any means. It is entitled, "Facts and Figures about Canning and Packing." This is a compilation by "Western Canner & Packer," the trade journal, which is read almost exclusively, I may state, by canners.

The portions which I wish to introduce are either underlined or side lined in red ink.

The chief purpose for introducing this material is because it shows in compact statistical form the ranking of the various products according to total pack, total value of pack, total export, western percentage of United States pack, and similar matters. I don't believe there are any controversial statements contained herein.

Will Mr. St. Sure stipulate as to the——

Mr. St. Sure: (Interrupting) The same objection; same stipulation.

Trial Examiner Traynor: It may be received as Board's Exhibit No. 36. [761]

(The document referred to, "Facts and Figures About Canning and Packing," was received in evidence and marked Board's Exhibit No. 36.)

Trial Examiner Traynor: You have some more, Mr. Edises?

Mr. Edises: The only additional matters which I desire to introduce a proof on, is the connection between Stokely and Santa Cruz. I don't feel that the information contributed by Williams was at all significant on that point.

I have cause for believing that there is a tie-up, a very considerable stock ownership, of Stokely in Santa Cruz. Mr. Huddleson, of course, would be

the person to testify to it. He is in the East, I understand.

Mr. St. Sure: Yes.

Mr. Edises: I have certain information from the Division of Corporations of the State of California, and the Department of State, of the State of California, bearing on the ownership or corporate set-up, of the two corporations.

Neither of these, of course, would be competent evidence in a court of common law; but, possibly, Mr. St. Sure might find there is nothing contained in these letters that he would find objectionable, so we might be able to save some time by introducing them in evidence.

(Counsel Edises hands letters to Counsel St. Sure.)

Mr. Edises: It would be, of course, possible to get photostatic copies, duly authenticated of the originals, but that would involve additional time, of course. [762]

Mr. St. Sure: Well, in so far as the matter referred to, that is, the connection, if any, between Stokely and Santa Cruz, that is one subject upon which I cannot stipulate in the matter of short cutting any proof. So, if you desire to go forward with that, you would have to proceed however you choose to.

Mr. Edises: Well, I presume I could get the same information, namely that the total number of shares are 1100, and if 550 of them, or one-half, are owned by Stokely, I could get that, of course, from a verified statement.

Mr. St. Sure: I don't know if that is the fact. There is a listing there of some thousands of shares of stock; 16000 shares to this persons, 16000 shares to someone else. The record is there authorizing the issuance of certain specific blocks of shares.

I will state now that my best information is that there has been no transfer of stock to Stokely but there may have been an application for the purpose of authorizing issuance of stock to it. My actual inference is that there has been no actual transfer of any stock. That is maybe why Mr. Huddleson is East, I don't know. There has been no actual transfer of stock, and was no actual transfer of stock at the time of the difficulties involved here.

Mr. Edises: Is that your opinion despite this reference in the letter from the Division of Corporations, to an issu- [763] ance of 275 shares of preferred and 275 shares of common stock?

Mr. St. Sure: It says permission authorizing an issue——

Mr. Edises: "For the considerations recited in the application."

Mr. St. Sure: They must be recited in order to have the stock issued.

Mr. Edises: Not necessary.

Mr. St. Sure: I am giving you my best information. No actual transfer of stock has occurred. Now, this again, is a purely personal observation, is not to be binding upon my client but I will state that one reason why I must insist that the matters of any proof of that kind, which you feel

may be material, must be developed through ordinary channels and by proper evidence. There have been negotiations, as I understand it, for some time, for a possible or prospective interchange of interests, and that is in progress right now. I don't feel that the airing of the matter, unless it be essential at this time, will do any good to my client or Stokely Brothers. That is why I made the objection of any matter being short cut. I would be required to make every objection possible, unless or until something occurs to the relationship of my own client, except as a basis of a business deal which is now in progress.

It is unfortunate, but it just so happens that that is [764] the fact.

I will state also that from my point of view I have no personal knowledge of the basis of the transaction; and I have personally claimed none because I don't want to be put in the position of hedging on statements that I would make here.

Mr. Edises: So far as the information contained in these letters from the two Departments of State, State Departments, you have no reason, I take it, to question any of the information contained in these letters, am I correct?

Mr. St. Sure: Well, I have no reason to question it, or I have no reason to agree that it is correct. From my point of view it just isn't evidence.

Mr. Edises: The point you are making is that you have no knowledge of these facts, is that the

situation? I mean, the facts contained in these two letters.

Mr. St. Sure: No. The point I make, Mr. Edises, is so far as I am concerned in this proceeding, any proof which you desire to deduce between the alleged connection between Stokely and Santa Cruz, so far as I am concerned, will have to be presented on the basis of competent evidence.

Mr. Edises: Mr. Gaddis is secretary of the Santa Cruz Packing Company.

Mr. St. Sure: I will state frankly that I know of my own knowledge that the only person who can tell you the [765] present status of the situation as between Stokely and Santa Cruz Fruit Packing, and the status of the negotiations at the time of the strike difficulty arose, is Mr. Huddleson. Mr. Gaddis is the nominal secretary, and I can state to you that in so far as any request of information be made of Mr. Gaddis for the contracts or record of negotiations, those are in the possession of Mr. Huddleson and the knowledge is his knowledge only.

Mr. Edises: Mr. Huddleson is in the East. Do you know when he will return, Mr. St. Sure.

Mr. St. Sure: It will be a matter of some weeks.

Mr. Edises: I certainly hate to hold the hearing over.

Mr. St. Sure: I think it will take two or three weeks to analyze the material introduced today.

Mr. Edises: There are no fast ones concealed in the information.

Mr. St. Sure: No, but I expect to get educated.

Mr. Edises: Can't we short cut a part of this, Mr. St. Sure, by permitting the material contained in these letters to go in without the usual process of getting authenticated copies, for example, or statements from the originals? You know, as well as I, that if we did that, we would get the same matters exactly as they are contained here. Why not let these letters go in for what they are worth?

Mr. St. Sure: Sorry, I can't agree to that particular matter. [766]

Mr. Edises: I dislike to resort to the section of the act which states the common law rules of evidence are not binding, but in this particular case it seems to me that common sense is on the side of suggesting that these particular matters ought to be permitted to go in the record in the form that they are contained in these letters upon state officials without the additional process of verification which common law procedure would require; and I am going to ask the Examiner to allow me to introduce as the Board's Exhibit, these two letters which I herewith hand him for examination.

(Counsel Edises hands Examiner letters referred to.)

Mr. Edises: I will state also that, although it may be concurring to Mr. St. Sure's information, I have been informed from a source while not official, is, nevertheless, in my opinion, reliable, that on or about December 1934, fifty per cent of the outstanding stock of the Santa Cruz was actually sold to Stokely Brothers & Company.

Mr. St. Sure: You are in a fortunate position. If your informant is reliable, he knows more about the business of the Santa Cruz Packing Company than the officers themselves.

If you are satisfied with your informant, I can simply repeat my statement that my own employe and client, so far as I know, knows nothing about any such transaction. [767]

Trial Examiner Traynor: What are your objections to these?

Mr. St. Sure: My objections are that the documents are hearsay. No proper foundation has been laid for their admission. In addition to these, the other general objections of relevancy, lack of jurisdiction of the Board, and unconstitutionality of the act, and so forth. Now, specifically, the further objection is made upon the ground of common sense and not of law, although I like to think of evidence as based upon experience and common sense.

It can't be ascertained from letters themselves just what stock has been issued; and on the very face of the letter it appears that there are some 35000 shares of capital stock listed as having been outstanding at one time, preferred stock, in 1921, and, yet, Mr. Edises reads the letter as indicating that there are only 1100 outstanding shares.

I certainly don't think that the inference is to be drawn from the communication which Mr. Edises seems to feel that it can, either that the 550 shares referred to as having been authorized to be issued to Stokely Brothers, has been issued, or that they

constitute, as he indicates, a majority of stock of the corporation.

Mr. Edises: That information contained in there is supplemented by this information from the Department of State, which states that the capital stock originally amounted to $50000, divided into 500 shares of the par value of $100 per share. [768]

There were subsequent additions, first to $100000, divided into 1000 shares, still $100 par, of which 500 were preferred and 500 common; and then the last increase to $110000, divided into 1100 shares, still $100 par value.

If you multiply 11 by 100, it must be obvious that the 1100 is the figure, provided, the capital stock is as stated, $110000 and par value is $100.

Mr. St. Sure: It simply further emphasizes the doubt on the matter which is in my mind because the letter from the Commissioner of Corporations specifically alleged preferred stockholders, holding shares aggregating more than 35000 shares of preferred stock.

Mr. Edises states that the letter from the Department states that they were never authorized to issue—that they were never authorized to be issued, and there weren't 1100 shares altogether.

Mr. Edises: Do you know the value of the outstanding capital stock of the Santa Cruz?

Mr. St. Sure: I do not.

Trial Examiner Traynor: You can get this information from the department at Sacramento in such form as it is competent.

Mr. Edises: Yes, there is no question about its being there. The only aspect of it that doesn't

appeal to me is that it will involve holding the case open for that matter which I would rather be able to end now. [769]

Mr. St. Sure: After all, Mr. Edises, it just occurs to me that you construe this letter as indicating a transfer of stock to Stokely of more than the controlling share of the stock of the corporation.

Mr. Edises: No, an equal share.

Mr. St. Sure: Pardon?

Mr. Edises: I say, an equal share.

Mr. St. Sure: My information is that the transfer hasn't occurred. I simply say that in all fairness, we resort to the original document and get the accurate situation.

Mr. Edises: I presume that the stock transfer books of the Santa Cruz Fruit Packing Company are available, are they not?

Mr. St. Sure: I presume they are.

Mr. Edises: Is it possible for us to have them?

Mr. St. Sure: You can subpoena them.

Mr. Edises: All right. May I request that this hearing be continued——

(Remarks off the record.)

Mr. Edises: I hereby move—let me put it this way—the Board's case is complete, with the exception of the possible introduction of further proof as to the connection of Stokely Brothers & Company, Incorporated, with the Santa Cruz Fruit Packing Company. I should like to have an opportunity to indicate tomorrow as to whether or not the Board cares to introduce this proof. [770]

I shall get in touch with the Examiner, and counsel for the Respondent, as soon as I have obtained information from the National Board bearing on the introduction of this material.

In the event that that material is not to be introduced, I understand then that this hearing is to be considered as terminated and that we are to have a period of ten days for the submission of written briefs.

Mr. St. Sure: Perhaps I had better state my position for the record.

In view of the statement of counsel for the Board, if no further testimony is offered on behalf of the Board, Respondent will rest, offering no testimony, and taking no further action in the hearing, except the making of a motion, or the renewal of the motion, to dismiss, and certain other motions relating to the jurisdiction of the Board and admissibility of the testimony.

If the hearing is resumed for the purpose of taking the additional information indicated by counsel for the Board, those motions referred to will be orally stated and if the hearing does not reconvene, I understand that I may submit those motions in writing and they will be deemed to have been made orally in accordance with the rules of procedure of the Board and may be incorporated into the record as if they had been made orally at the conclusion of the hearing. Of course, [771] the ten day period for the filing of briefs is agreeable.

Mr. Edises: That is all.

Trial Examiner Traynor: We adjourn now until further call by the Examiner.

(Whereupon, at 5:05 o'clock p. m., January 6, 1936, the hearing in the above entitled matter was adjourned subject to further call by the Examiner.)

January 9, 1936.

On authorization of the Trial Examiner the record was opened for the inclusion therein of the following written motion made by the attorney for the respondent.

[Title of Court and Cause.]

MOTION ON BEHALF OF RESPONDENT, SANTA CRUZ FRUIT PACKING COMPANY, MADE UPON THE CONCLUSION OF THE TAKING OF TESTIMONY IN HEARING XX-C-1, TO BE INCLUDED IN THE TRANSCRIPT OF [772] PROCEEDINGS AS HAVING BEEN MADE ORALLY AND IN ACCORDANCE WITH THE RULES AND REGULATIONS PRESCRIBED BY THE NATIONAL LABOR RELATIONS BOARD.

At this time, Respondent, Santa Cruz Fruit Packing Company, respectfully moves for dismissal of the complaint on file herein upon the following grounds, and each of them:

First: That said complaint does not state facts sufficient to constitute a cause of action or basis for complaint;

Second: That the National Labor Relations Board and the Regional Board, and each of them, are without jurisdiction to hear the issues raised by the complaint and answer on file herein, and are without jurisdiction to proceed in the premises;

Third: That the National Labor Relations Act, approved July 5, 1935, violates the terms and provisions of the Constitution of the United States and particularly Section 8 of Article One thereof and the Fifth Amendment thereto, and that said Act is inherently invalid;

Fourth: That the evidence adduced at the hearing herein is sufficient to support all or any of the material allegations contained in said complaint and is insufficient to support any findings in the premises;

Fifth: That the evidence affirmatively establishes that the Respondent is not engaged in interstate or foreign commerce.

For each of the reasons heretofore stated, and as will [773] be set forth with greater particularity in the brief to be filed hereafter, Respondent moves that the Trial Examiner dismiss the said complaint and terminate all proceedings thereunder.

(Signed) DECOTO AND ST. SURE
Attorneys for Respondent.

Trial Examiner Traynor: I reserve decision on the motion.

The Trial Examiner authorized the following stipulation be incorporated in the record:

It is hereby stipulated by and between the National Labor Relations Board and respondent Santa

Cruz Fruit Packing Company that L. H. Ledtke, named as one of the complainants in this case, is by reason of illness unable to testify in the instant case; that said party was employed by the respondent Santa Cruz Fruit Packing Company prior to the 15th day of July, 1935, to do general warehouse work, including the loading of freight cars and trucks with the products of respondent; that he applied for membership in the Weighers Warehousemen and Cereal workers Union, I. L. A., 38-44, on or about July 15, 1935, and was initiated into the organization at the same time as the majority of the other Santa Cruz employes, to-wit, on Wednesday, August 7th, 1935; that his history in connection with the alleged lockout on the morning [774] of August 8, 1935, was substantially the same as testified to by the other men; that he did picket duty for a period of time commencing August 8, 1935; that he desires to have his job back and will accept it if offered to him pursuant to the Board's reinstatement order; that the above stipulation shall be deemed a part of the record in this case and physically copied into the transcript as such.

This stipulation on the part of the respondent Santa Cruz Fruit Packing Company, is not to be deemed a waiver of any objection heretofore made to the admissibility of evidence.

(Whereupon on January 8, 1936, the hearing in the above-entitled matter was closed.) [775]

[Title of Court and Cause.]

CERTIFICATE OF CLERK, U. S. CIRCUIT COURT OF APPEALS FOR THE NINTH CIRCUIT, TO RECORD CERTIFIED UNDER RULE 38 OF THE REVISED RULES OF THE SUPREME COURT OF THE UNITED STATES.

I, Paul P. O'Brien, as Clerk of the United States Circuit Court of Appeals for the Ninth Circuit, do hereby certify the foregoing two volumes, consisting of pleadings before the National Labor Relations Board, proceedings in United States Circuit Court of Appeals for the Ninth Circuit, and transcript of testimony, numbered from and including 1 to and including seven hundred and fifty-nine (759) together with two volumes of exhibits, being Board Exhibits 1 to 33, inclusive, 35, and two books, being Board's Exhibits 34 and 36, to be a full, true and correct copy of the entire record of the above-entitled case in the said Circuit Court of Appeals, made pursuant to request of counsel for the respondent, and certified under Rule 38 of the Revised Rules of the Supreme Court of the United States as the originals thereof remain on file and appear of record in my office.

Attest my hand and the seal of the said the United States Circuit Court of Appeals for the Ninth Circuit, at the City of San Francisco, in the State of California, this 2nd day of October, 1937.

[Seal] PAUL P. O'BRIEN,

Clerk.

[fol. 776] SUPREME COURT OF THE UNITED STATES

ORDER ALLOWING CERTIORARI—Filed December 6, 1937

The petition herein for a writ of certiorari to the United States Circuit Court of Appeals for the Ninth Circuit is granted. And it is further ordered that the duly certified copy of the transcript of the proceedings below which accompanied the petition shall be treated as though filed in response to such writ.